

ADDENDUM

ADDENDUM TABLE OF CONTENTS

Pursuant to the rules, Petitioner provides verbatim text of pertinent state-law constitutional, statutory and regulatory authorities cited in this brief.

The Fifth Amendment to the U.S. Constitution 1789 (rev. 1992)	Add-4
The Fourteenth Amendment to the U.S. Constitution 1789 (rev. 1992)	Add-4
The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101)	Add-4
Section 504 of the Rehabilitation Act of 1973	Add-5
29 U.S.C. § 794a - Remedies and attorney fees	Add-5
42 U.S.C. § 12101	Add-6
42 U.S. Code § 12112 – Discrimination	Add-8
42 U.S. Code § 12131(1)	Add-10
42 U.S. Code § 12132 – Discrimination	Add-11
42 U.S. Code § 12133 – Enforcement	Add-11
42 U.S. Code § 12134 – Regulations	Add-11
28 C.F.R § 35.130 General prohibitions against discrimination	Add-12
28 C.F.R. § 35.160 General	Add-16
28 C.F.R. § 35.164 Duties	Add-17
Cal. Const., Art. I § VI(6)	Add-18
Cal. R. Ct. Rule 1.100	Add-20
Cal. R. Ct. Rule 1.3	Add-26
Cali. R. C. Rule 3.1332	Add-26

Cali. R. C. Rule 10.1	Add-28
Cal. Gov. Code § 11135	Add-28
Cal. Gov. Code § 12940(n)	Add-29
Cal. Code Civ. Proc. § 128(a)	Add-30

The Fifth Amendment to the Constitution of United States of America 1789

(rev. 1992)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fourteenth Amendment to the Constitution of United States of America 1789

(rev. 1992)

Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 504 of the Rehabilitation Act of 1973 provides:

No otherwise qualified individual with a disability in the United States, as defined in section 7(20) shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

29 U.S.C. § 794a - Remedies and Attorney Fees

- (a) (1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e-5(f) through (k)) (and the application of section 706(e)(3) (42 U.S.C. 2000e-5(e)(3)) to claims of discrimination in compensation), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e-5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

The Americans with Disabilities Act of 1990 42 U.S.C. § 12101 states:

(a) Findings: The Congress finds that

- (1) Physical or mental disabilities in no way diminishes a person right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subject to discrimination;
- (2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- (3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

- (4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- (5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;
- (7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and,
- (8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is

justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose: It is the purpose of this chapter—

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 U.S. Code § 12112 – Discrimination

(a) GENERAL RULE

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION As used in subsection (a), the term “discriminate against a qualified individual on the basis of disability” includes—

- (1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;
- (2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity’s qualified applicant or employee with a disability to the discrimination prohibited by this subchapter (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);
- (3) utilizing standards, criteria, or methods of administration—
 - (A) that have the effect of discrimination on the basis of disability;
 - or
 - (B) that perpetuate the discrimination of others who are subject to common administrative control;
- (4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5) (A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

42 U.S.C. §§ 12131–12134, concerning provision of public services.

42 U.S. Code § 12131(1) states,

As used in this subchapter:

(1) PUBLIC ENTITY: The term “public entity” means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) [1] of title 49).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

42 U.S. Code § 12132 - Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S. Code § 12133 – Enforcement

The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.

42 U.S. Code § 12134 – Regulations

(a) IN GENERAL

Not later than 1 year after July 26, 1990, the Attorney General shall promulgate regulations in an accessible format that implement this part. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 12143, 12149, or 12164 of this title.

(b) RELATIONSHIP TO OTHER REGULATIONS

Except for “program accessibility, existing facilities”, and “communications”, regulations under subsection (a) shall be consistent

with this chapter and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 794 of title 29.

With respect to “program accessibility, existing facilities”, and “communications”, such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under section 794 of title 29.

(c) STANDARDS

Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this part, other than facilities, stations, rail passenger cars, and vehicles covered by part B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204(a) of this title.

28 C.F.R § 35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b) (1) A public entity, in providing any aid, benefit, or service, may not, directly

or through contractual, licensing, or other arrangements, on the basis of disability -

- (i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- (iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- (iv) Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
- (v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;

- (vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;
 - (vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.
- (2) A public entity may not deny a qualified individual with a disability the opportunity to participate in services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.
- (3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:
 - (i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
 - (ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
 - (iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.
- (4) A public entity may not, in determining the site or location of a facility, make selections -

- (i) That have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or
 - (ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.
- (5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.
- (6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.
- (7) (i) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

28 C.F.R. § 35.160 General

(a) (1) A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

(2) For purposes of this section, “companion” means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.

(b) (1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.

(2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with

disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

28 C.F.R. § 35.164 Duties

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the public entity.

1. Cal. Const. Art. I, § VI(6).

§ 6. Judicial Council

(a) The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, three judges of courts of appeal, 10 judges of superior courts, two nonvoting court administrators, and any other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a three-year term pursuant to procedures established by the council; four members of the State Bar appointed by its governing body for three-year terms; and one member of each house of the Legislature appointed as provided by the house.

(b) Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

(c) The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

(d) To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

(e) The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

(f) Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Cal. R. Ct. 1.100.

Rule 1.100. Requests for accommodations by persons with disabilities

(a) Definitions As used in this rule:

(1) "Persons with disabilities" means individuals covered by California Civil Code section 51 et seq.; the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); or other applicable state and federal laws.

This definition includes persons who have a physical or mental impairment that limits one or more of the major life activities, have a record of such an impairment, or are regarded as having such an impairment.

(2) "Applicant" means any lawyer, party, witness, juror, or other person with an interest in attending any proceeding before any court of this state.

(3) "Accommodations" means actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment, devices, materials in alternative formats, readers, or certified interpreters for persons with hearing impairments; relocating services or programs to accessible facilities; or providing services at alternative sites.

Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation.

(b) Policy

It is the policy of the courts of this state to ensure that persons with disabilities have equal and full access to the judicial system. To ensure access to the courts for persons with disabilities, each superior and appellate court must delegate at least one person to be the ADA coordinator, also known as the access coordinator, or designee to address requests for accommodations. This rule is not intended to impose limitations or to invalidate the remedies, rights, and procedures accorded to persons with disabilities under state or federal law.

(c) Process for requesting accommodations

The process for requesting accommodations is as follows:

(1) Requests for accommodations under this rule may be presented ex parte on a form approved by the Judicial Council, in another written format, or orally. Requests must be forwarded to the ADA coordinator, also known as the access coordinator, or designee, within the time frame provided in (c)(3).

(2) Requests for accommodations must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the impairment.

(3) Requests for accommodations must be made as far in advance as possible, and in any event must be made no fewer than 5 court days before the requested implementation date. The court may, in its discretion, waive this requirement.

(4) The court must keep confidential all information of the applicant concerning the request for accommodation, unless confidentiality is waived in writing by the applicant or disclosure is required by law. The applicant's identity and confidential information may not be disclosed to the public or to persons other than those involved in the accommodation process. Confidential information includes all medical information pertaining to the applicant, and all oral or written communication from the applicant concerning the request for accommodation.

(d) Permitted communication

Communications under this rule must address only the accommodation requested by the applicant and must not address, in any manner, the subject matter or merits of the proceedings before the court.

(e) Response to accommodation request

The court must respond to a request for accommodation as follows:

(1) In determining whether to grant an accommodation request or provide an appropriate alternative accommodation, the court must consider, but is not limited by, California Civil Code section 51 et seq., the provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), and other applicable state and federal laws.

(2) The court must promptly inform the applicant of the determination to grant or deny an accommodation request. If the accommodation request is denied in whole or in part, the response must be in writing. On request of the applicant, the court may also provide an additional response in an alternative format. The response to the applicant must indicate:

(A) Whether the request for accommodation is granted or denied, in whole or in part, or an alternative accommodation is granted;

(B) If the request for accommodation is denied, in whole or in part, the reason therefor;

(C) The nature of any accommodation to be provided;

(D) The duration of any accommodation to be provided; and

(E) If the response is in writing, the date the response was delivered in person or sent to the applicant.

(f) Denial of accommodation request

A request for accommodation may be denied only when the court determines that:

(1) The applicant has failed to satisfy the requirements of this rule;

(2) The requested accommodation would create an undue financial or administrative burden on the court; or

(3) The requested accommodation would fundamentally alter the nature of the service, program, or activity.

(g) Review procedure

(1) If the determination to grant or deny a request for accommodation is made by nonjudicial court personnel, an applicant or any participant in the proceeding may submit a written request for review of that determination to the presiding judge or designated judicial officer. The request for review must be submitted within 10 days of the date the response under (e)(2) was delivered in person or sent.

(2) If the determination to grant or deny a request for accommodation is made by a presiding judge or another judicial officer, an applicant or any participant in the proceeding may file a petition for a writ of mandate under rules 8.485-8.493 or 8.930-8.936 in the appropriate reviewing court. The petition must be filed within 10 days of the date the response under (e)(2) was delivered in person or sent to the petitioner. For purposes of this rule, only those participants in the proceeding who were notified by the court of the determination to grant or deny the request for accommodation are considered real parties in interest in a writ proceeding. The petition for the writ must be served on the respondent court and any real party in interest as defined in this rule.

(3) The confidentiality of all information of the applicant concerning the request for accommodation and review under (g)(1) or (2) must be maintained as required under (c)(4).

(h) Duration of accommodations

The accommodation by the court must be provided for the duration indicated in the response to the request for accommodation and must remain in effect for the period specified. The court may provide an accommodation for an indefinite period of time, for a limited period of time, or for a particular matter or appearance.

California Rule of Court, Rule 1.3. Authority

The rules in the California Rules of Court are adopted by the Judicial Council of California under the authority of article VI, section 6, of the Constitution of the State of California, unless otherwise indicated. The rules in division 5 of title 8 and in title 9 were adopted by the Supreme Court.

California Rules of Court, Rule 3.1332.

Motion or application for continuance of trial

(a) Trial dates are firm

To ensure the prompt disposition of civil cases, the dates assigned for a trial are firm. All parties and their counsel must regard the date set for trial as certain.

(Subd (a) repealed and adopted effective January 1, 2004; amended effective January 1, 1995.)

(b) Motion or application

A party seeking a continuance of the date set for trial, whether contested or uncontested or stipulated to by the parties, must make the request for a continuance by a noticed motion or an ex parte application under the rules in chapter 4 of this division, with supporting declarations. The party must make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered.

(c) Grounds for continuance

Although continuances of trials are disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance. Circumstances that may indicate good cause include:

- (1) The unavailability of an essential lay or expert witness because of death, illness, or other excusable circumstances;
- (2) The unavailability of a party because of death, illness, or other excusable circumstances;
- (3) The unavailability of trial counsel because of death, illness, or other excusable circumstances;
- (4) The substitution of trial counsel, but only where there is an affirmative showing that the substitution is required in the interests of justice;
- (5) The addition of a new party if:
 - (A) The new party has not had a reasonable opportunity to conduct discovery and prepare for trial; or
 - (B) The other parties have not had a reasonable opportunity to conduct discovery and prepare for trial in regard to the new party's involvement in the case;
- (6) A party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts; or

- (7) A significant, unanticipated change in the status of the case as a result of which the case is not ready for trial.

California Rule of Court, Rule 10.1. Authority, duties, and goals of Judicial Council

(b) Constitutional authority and duties

Article VI, section 6 of the California Constitution requires the council to improve the administration of justice by doing the following:

- (1) Surveying judicial business;
- (2) Making recommendations to the courts;
- (3) Making annual recommendations to the Governor and the Legislature;
- (4) Adopting rules for court administration and rules of practice and procedure that are not inconsistent with statute; and
- (5) Performing other functions prescribed by statute.

Cal. Gov. Code § 11135.

- (a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial

assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

- (b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.
- (c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926.
- (d) The protected bases used in this section include a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

Cal. Gov. Code § 12940(n)

It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

5(B)(n) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a

request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

Cal. Code Civ. Proc. § 128(a)

- (a) Every court shall have the power to do all of the following:
- (1) To preserve and enforce order in its immediate presence.
 - (2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.
 - (3) To provide for the orderly conduct of proceedings before it, or its officers.
 - (4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.
 - (5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.
 - (6) To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this code.
 - (7) To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties.
 - (8) To amend and control its process and orders so as to make them conform to law and justice. An appellate court shall not reverse or vacate a duly

entered judgment upon an agreement or stipulation of the parties unless the court finds both of the following:

- (A) There is no reasonable possibility that the interests of nonparties or the public will be adversely affected by the reversal.
- (B) The reasons of the parties for requesting reversal outweigh the erosion of public trust that may result from the nullification of a judgment and the risk that the availability of stipulated reversal will reduce the incentive for pretrial settlement.

APPENDIX

Index of Appendix

- Appendix A April 26, 2018, Opinion of State Court of Appeals
- Appendix B December 15, 2015, Decision of State Court
- Appendix C July 11, 2018, Order of State Supreme Court Denying Review
- Appendix D February 19, 2015, Decision of State Court Reducing ADA Request
- Appendix E May 19, 2015, Decision of State Court Denying ADA Request
- Appendix F September 9, 2015, Decision of State Court Denying ADA Request
- Appendix G September 29, 2015, Decision of State Court Denying ADA Request
- Appendix H October 21, 2015, Emails between Petitioner and LASC court clerk,
with Defendants copied
- Appendix I October 22, 2015, Decision of State Court Denying ADA Request
- Appendix J September 24, 2015, Decision of the LASC Dept. 17, Granting
Petitioner's ADA Request for Accommodation
- Appendix K September 28, 2015, Ruling of the U.S. Federal Court Granting
Indefinite Stay in response to Petitioner's ADA Request
- Appendix L October 1, 2015, Decision of the LASC Dept. 17, Granting Petitioner's
ADA Request for Accommodation
- Appendix M April 1, 2016, Notice Designating the Record on Appeal

Appendix—A

4/26/2018

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL – SECOND DIST.

FILED

Apr 26, 2018

JOSEPH A. LANE, Clerk

B270403

kstpierre

Deputy Clerk

MICHAEL DEUSCHEL,

Plaintiff and Appellant,

v.

USC FACULTY DENTAL
PRACTICE et al.,

Defendants and Respondents.

(Los Angeles County
Super. Ct. No. BC496684)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael J. Raphael, Judge. Affirmed.

Michael Deuschel, in pro. per., for Plaintiff and Appellant.

Fraser Watson & Croutch, Alexander M. Watson and
Daniel K. Dik for Defendants and Respondents.

Injury Court transferred the case to an Independent Calendar Court and vacated all pending motion and trial dates.

Defendants answered plaintiff's operative complaint in September 2014 and, two months later, moved to compel discovery responses. Soon afterward, plaintiff's attorney asked to be relieved as counsel due to a "complete breakdown" in the attorney-client relationship. The court granted the attorney's motion, and plaintiff returned to self-represented status. Trial was set for September 2015.

B. Plaintiff's Requests to Stay Proceedings and Continue Trial

Plaintiff requested stays on at least four occasions in 2015: once in February, twice in September, and once in October.

In February, plaintiff filed an "Ex Parte Application to Continue the Trial and Stay All Judicial and Procedural Actions and Matters Due to Medical Incapacitation." Asserting that he had upcoming medical appointments and surgeries, plaintiff requested "a six month continuance of the trial to about March 22, 2016 and a six month stay of all judicial and procedural actions and matters including depositions, discovery and motions to about August 24, 2015." Plaintiff states in his opening brief that the court granted a three-month stay in response to his request, but the court's ruling is not included in the appellate record. The only reference to this stay in the record is found in defendants' Notice of Ruling following a May 2015 case management conference. That notice states, "[a]fter a brief discussion of the status of plaintiff's health," the court ruled that

Superior Court, plus two matters in arbitration, and had filed lengthy documents in several of these cases in 2014 and 2015. The court denied plaintiff's request for reconsideration in a September 2015 minute order. The minute order indicates no reporter was present at the hearing.

On the same date that plaintiff filed his ex parte application for reconsideration, defendants filed a motion for summary judgment. Plaintiff did not oppose the motion. Instead, weeks later on October 15, 2015, he filed a "Third Request to Stay All Matters and Opposition to the Defendants' Order to Show Cause and to Sanction Him." Plaintiff argued that his recovery from recent surgeries and the need for additional surgeries warranted a "stay of all matters including Defendants' Discovery due dates and the MSJ to mid-January 2016" The appellate record does not include a trial court ruling on this October 2015 stay request, and plaintiff claims there is no ruling because the court "ignored" his request.

One week after plaintiff filed this last request for a stay of the proceedings, the trial court held a hearing on defendants' discovery motion. There is no transcript of this (or any other) hearing in the record, but plaintiff claims the court discussed his medical issues and his ability to litigate. According to plaintiff, the court explained in either a tentative or final order (neither of which is included in the record) that "Plaintiff . . . spent time on September 9 and 29, 2015, litigating an ex parte request to stay matters and a motion for reconsideration of the denial of that request. While Plaintiff may well have serious medical issues, the Court is convinced that any individual who could have litigated the ex parte motion and reconsideration could have directed the same energies toward responding to the 18 requests

A. *Plaintiff's Failure to Include Reporter's Transcripts and Relevant Written Rulings in the Appellate Record Requires Affirmance*

Plaintiff challenges the court's denial of his continuance and stay requests as an abuse of the trial court's discretion, but the record includes little information regarding the court's reasons for denying the requests. Plaintiff's briefs emphasize that his medical status was discussed at hearings, but there are no reporter's transcripts (nor suitable substitutes therefor) that reliably reveal what transpired. There are also no written rulings memorializing the court's reasons for denying the stays. (*Rhule v. WaveFront Technology, Inc.* (2017) 8 Cal.App.5th 1223, 1229, fn. 5 [explaining that "succinct" written rulings are a "further indication that a reliable record of what transpired at the hearings is indispensable for our review"] (*Rhule*).)

"As the party asserting error, it is plaintiff's burden to supply an adequate record." (*Rhule, supra*, 8 Cal.App.5th at p. 1227.) We must presume the trial court's judgment is correct, and "[a]ll intendments and presumptions are indulged to support it on matters as to which the record is silent" (*Denham, supra*, 2 Cal.3d at p. 564.) Under these circumstances, this presumption is fatal to plaintiff's appeal.

B. *Plaintiff Forfeited His Rule 1.100 Argument*

The appellate record does include all of plaintiff's stay and continuance requests, and none mentions Rule 1.100. It is well settled that an appellant may not raise an argument for the first time on appeal. (See, e.g., *Johnson v. Greenelsh* (2009) 47 Cal.4th 598, 603 [citing the "established rules that a party to an action may not, for the first time on appeal, change the theory of the

means and method of requesting ADA accommodations including the form MC-410 to submit an ADA request. If they had provided it [to plaintiff] in February, [plaintiff] would have been alerted to the value of his rights and exercised them.” Plaintiff’s argument appears to rest on his assumption that Rule 1.100, subdivision (c)(1) requires the court to forward any request that conceivably *might* be framed as a request for an accommodation under Rule 1.100 to the court’s ADA coordinator as a request under Rule 1.100. Subdivision (c)(1) of the rule, however, provides that “[r]equests for accommodations under this rule may be presented ex parte on a form approved by the Judicial Council, in another written format, or orally. Requests must be forwarded to the ADA coordinator, also known as the access coordinator, or designee” The context makes clear that parties—not the court—have at least a minimal duty to articulate, in substance if not in form, Rule 1.100 as a basis for relief. So far as the record reveals, plaintiff did not comply with that duty here.

Finally, plaintiff cites the ADA, the Unruh Civil Rights Act, and California Government Code section 11135 generally for their prohibitions against discrimination and guarantees of access. However, plaintiff identifies no authority that establishes every request for a stay based on medical issues should be treated as a Rule 1.100 request. Plaintiff’s failure to advance a Rule 1.100 theory below is therefore fatal to his attempt to invoke it here.

Michael Deuschel
P. O. Box 1694
El Segundo, CA 90245

MICHAEL DEUSCHEL,
Plaintiff and Appellant,
v.
USC FACULTY DENTAL PRACTICE ET AL,
Defendant and Respondent.
B270403

Appendix—B

FRASER WATSON & CROUTCH, LLP
Stephen C. Fraser, State Bar No. 152746
sfraser@fwcllp.com
Armen G. Derian, State Bar No. 232103
aderian@fwcllp.com
100 West Broadway, Suite 650
Glendale, California 91210-1201
Telephone: (818) 543-1380
Facsimile: (818) 543-1389

Attorneys for Defendants, USC OSTROW
SCHOOL OF DENTISTRY and USC FACULTY
DENTAL PRACTICE (BHG105)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

MICHAEL DEUSCHEL, an individual,
Plaintiff,

vs.

USC FACULTY DENTAL PRACTICE, an
unknown entity; USC OSTROW SCHOOL OF
DENTISTRY, an unknown entity, M.
RESHAD, D.D.S., RICH FURUICHI, D.D.S.,
RICHARD LIN, D.D.S., VANTHI PHAM,
D.D.S., HESSAM NAWZARI, D.D.S.,
ROBERTA DORNAN, D.D.S., GLEN CLARK,
D.D.S., DR. ABELSON, D.D.S., and DOES 1
through 100, inclusive,
Defendants.

Case No. BC496864

**NOTICE OF ENTRY OF JUDGMENT
GRANTING SUMMARY JUDGEMENT IN
FAVOR OF DEFENDANTS USC OSTROW
SCHOOL OF DENTISTRY AND USC
FACULTY DENTAL PRACTICE.**

Assigned to Dept. 51

Trial Date: 9/13/2016
Action Filed: December 6, 2012

TO PLAINTIFF IN PRO PER MICHAEL DEUSCHEL:

PLEASE TAKE NOTICE THAT on Tuesday, December 15, 2015, the Court issued and
entered Judgment Granting Summary Judgment in favor of Defendants, USC OSTROW SCHOOL
OF DENTISTRY and USC FACULTY DENTAL PRACTICE.

///

///

///

1 A conformed copy of the Court's Judgment is attached hereto as Exhibit "A."

2
3
4 Dated: December 15, 2015

FRASER WATSON & CROUTCH, LLP

5
6 By:

7 
STEPHEN C. FRASER

8 ARMEN G. DERIAN

9 Attorneys for Defendants, USC OSTROW
10 SCHOOL OF DENTISTRY and USC FACULTY
11 DENTAL PRACTICE (BHG105)
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FRASER WATSON & CROUTCH, LLP
Attorneys at Law

Exhibit A

1 FRASER WATSON & CROUTCH, LLP
Stephen C. Fraser, State Bar No. 152746
2 sfraser@fwcllp.com
Armen G. Derian, State Bar No. 232103
3 aderian@fwcllp.com
100 West Broadway, Suite 650
4 Glendale, California 91210-1201
Telephone: (818) 543-1380
5 Facsimile: (818) 543-1389

6 Attorneys for Defendants, USC OSTROW
SCHOOL OF DENTISTRY and USC FACULTY
7 DENTAL PRACTICE (BHG105)

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

DEC 15 2015

Sherri R. Carter, Executive Officer/Clerk
By: Richard Duarte, Deputy

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 MICHAEL DEUSCHEL, an individual,
12
13 Plaintiff,

14 vs.

15 USC FACULTY DENTAL PRACTICE, an
unknown entity; USC OSTROW SCHOOL OF
16 DENTISTRY, an unknown entity, M.
RESHAD, D.D.S., RICH FURUICHI, D.D.S.,
17 RICHARD LIN, D.D.S., VANTHI PHAM,
D.D.S., HESSAM NAWZARI, D.D.S.,
18 ROBERTA DORNAN, D.D.S., GLEN CLARK,
D.D.S., DR. ABELSON, D.D.S., and DOES 1
through 100, inclusive,

19 Defendants.
20

Case No. BC496864

~~PROPOSED~~ JUDGMENT RE: MOTION
OF DEFENDANTS USC OSTROW
SCHOOL OF DENTISTRY AND USC
FACULTY DENTAL PRACTICE FOR
SUMMARY JUDGMENT

[Filed Concurrently with Motion for Summary
Judgment, Separate Statement of Undisputed
Facts, Separate Volume of Documentary
Evidence, and [Proposed] Order]

Reassigned to Dept. 51

21 Trial Date: September 13, 2016
22 Action Filed: December 6, 2012

23 On December 15, 2015, the motion for summary judgment filed on behalf of Defendants USC
24 OSTROW SCHOOL OF DENTISTRY AND USC FACULTY DENTAL PRACTICE as against the
25 operative complaint filed on behalf of plaintiff MICHAEL DEUSCHEL, came on for hearing in
26 Department 51 of the above Court, the Honorable Michael Raphael, Judge presiding. All parties
27 appeared by means of their counsel of record.

28 After full consideration of the papers and evidence filed in support of, and in opposition to, the

1 motion, and after hearing and considering oral argument of counsel, the court ruled that there are no
2 triable issues of material fact remaining between plaintiff, MICHAEL DEUSCHEL, and defendants
3 USC OSTROW SCHOOL OF DENTISTRY AND USC FACULTY DENTAL PRACTICE, and that
4 defendants are entitled to judgment as a matter of law.

5 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff MICHAEL
6 DEUSCHEL takes nothing on his action as against defendants USC OSTROW SCHOOL OF
7 DENTISTRY AND USC FACULTY DENTAL PRACTICE, that judgment be entered in favor of
8 defendants USC OSTROW SCHOOL OF DENTISTRY AND USC FACULTY DENTAL
9 PRACTICE and against plaintiff MICHAEL DEUSCHEL, and that defendants USC OSTROW
10 SCHOOL OF DENTISTRY AND USC FACULTY DENTAL PRACTICE be allowed recovery of
11 costs from plaintiff MICHAEL DEUSCHEL ~~in such sum as is reflected in defendants' cost~~
12 ~~memorandum.~~

13
14 Dated: 12/15/05

MICHAEL J. RAPHAEL

The Honorable Michael J. Raphael
Judge of the Superior Court

1 FRASER WATSON & CROUTCH, LLP
2 Stephen C. Fraser, State Bar No. 152746
3 *sfraser@fwcllp.com*
4 Armen G. Derian, State Bar No. 232103
5 *aderian@fwcllp.com*
6 100 West Broadway, Suite 650
7 Glendale, California 91210-1201
8 Telephone: (818) 543-1380
9 Facsimile: (818) 543-1389

6 Attorneys for Defendants, USC OSTROW
7 SCHOOL OF DENTISTRY and USC FACULTY
8 DENTAL PRACTICE (BHG105)

51
FILED
Superior Court of California
County of Los Angeles

DEC 15 2015

Sherri R. Carter, Executive Officer/Clerk
By Richard Duarte, Deputy

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA** *Received*
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT** *SEP 25 2015*
11 *Filing Window*

11 MICHAEL DEUSCHEL, an individual,

12 Plaintiff,

13 vs.

14 USC FACULTY DENTAL PRACTICE, an
15 unknown entity; USC OSTROW SCHOOL OF
16 DENTISTRY, an unknown entity, M.
17 RESHAD, D.D.S., RICH FURUICHI, D.D.S.,
18 RICHARD LIN, D.D.S., VANTHI PHAM,
19 D.D.S., HESSAM NAWZARI, D.D.S.,
20 ROBERTA DORNAN, D.D.S., GLEN CLARK,
21 D.D.S., DR. ABELSON, D.D.S., and DOES 1
22 through 100, inclusive,

23 Defendants.

Case No. BC496864

~~PROPOSED~~ ORDER GRANTING
SUMMARY JUDGMENT / SUMMERY
ADJUDICATION OF CAUSES OF ACTION

*[Filed Concurrently with Motion for Summary
Judgment, Separate Statement of Undisputed
Facts, Separate Volume of Documentary
Evidence, and [Proposed] Judgment]*

Reassigned to Dept. 51

Trial Date: September 13, 2016
Action Filed: December 6, 2012

23 The Motion of defendants USC OSTROW SCHOOL OF DENTISTRY AND USC FACULTY
24 DENTAL PRACTICE for Summary Judgment came on regularly for hearing before this Court in
25 Department "51" on December 15, 2015 at 8:30 a.m. After full consideration of the evidence and the
26 Points and Authorities submitted by the parties and all oral argument of counsel, it appears and the
27 Court finds that defendants USC OSTROW SCHOOL OF DENTISTRY AND USC FACULTY
28 DENTAL PRACTICE have shown by admissible evidence and reasonable inferences therefrom, not

1 contradicted by other evidence or inferences, and by matters judicially noticed by this Court, that:

2
3 **ISSUE 1:** Plaintiff's First Cause of Action for Dental Malpractice has no merit because
4 Defendants USC OSTROW SCHOOL OF DENTISTRY and USC FACULTY DENTAL
5 PRACTICE have established that they met the applicable standard of care with regard to their
6 care and treatment of plaintiff MICHAEL DEUSCHEL and that because nothing defendants
7 USC OSTROW SCHOOL OF DENTISTRY and/or USC FACULTY DENTAL PRACTICE
8 did or failed to do caused injury to plaintiff, MICHAEL DEUSCHEL. ~~In addition, First Cause~~
9 ~~of Action for Dental Malpractice is barred by the applicable Statute of Limitations.~~

10
11 **ISSUE 2:** Plaintiff's Second Cause of Action for Breach of Contract has no merit because
12 ~~Cause of Action is in 1st only;~~
13 plaintiff cannot establish the formation of a valid oral or written contract and because there is
14 no evidence that defendants USC OSTROW SCHOOL OF DENTISTRY and/or USC
15 FACULTY DENTAL PRACTICE entered into and/or breached any contract with plaintiff.

16 IT IS ORDERED, ADJUDGED, AND DECREED that the above issues are deemed to be
17 resolved in favor of defendants USC OSTROW SCHOOL OF DENTISTRY and USC FACULTY
18 DENTAL PRACTICE and against plaintiff, Michael Deuschel. No evidence or proof thereof shall be
19 required at the trial of this action, and the final judgment shall, in addition to any other matters
20 determined at trial, be based on a resolution of the above issues in favor of defendants USC OSTROW
21 SCHOOL OF DENTISTRY and USC FACULTY DENTAL PRACTICE.

22 Cost in the sum of \$ 5085.00

23 Dated: 12/15/15

24 
The Honorable Michael J. Raphael

25 Judge of the Superior Court

FRASER WATSON & CROUTCH, LLP
Attorneys at Law

Anna Nazaryan

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 100 West Broadway, Suite 650, Glendale, CA 91210-1201.

On December 15, 2015, I served true copies of the following document(s) described as **NOTICE OF ENTRY OF JUDGMENT GRANTING SUMMARY JUDGEMENT IN FAVOR OF DEFENDANTS USC OSTROW SCHOOL OF DENTISTRY AND USC FACULTY DENTAL PRACTICE** on the interested parties in this action as follows:

Plaintiff In Pro Per
Michael Deuschel
PO Box 641411
Los Angeles, CA 90064
mdeuschel@yahoo.com

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Fraser Watson & Croutch, LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on December 15, 2015, at Glendale, California.



Jessica Bohorquez

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/15/15

DEPT. 51

HONORABLE MICHAEL J. RAPHAEL

JUDGE

R. DUARTE

DEPUTY CLERK

HONORABLE
#4

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. ALBA, CA

Deputy Sheriff

NONE

Reporter

9:00 am

BC496864

Plaintiff

IN PRO PER:

Counsel

MICHAEL DEUSCHEL (CC)

MICHAEL DEUSCHEL

VS

Defendant

ARMEN DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANTS USC OSTROW SCHOOL OF DENTISTRY
AND USC FACULTY DENTAL PRACTICE FOR SUMMARY
JUDGMENT, OR, IN THE ALTERNATIVE, FOR SUMMARY
ADJUDICATION OF CAUSES OF ACTION;

The case is called for hearing.

After oral argument, the Motion for Summary
Judgment, as captioned above, is GRANTED, as more
fully reflected in the Court's written ruling, signed
and filed this date, and incorporated herein by
reference to the case file.

Plaintiff represents that he has had many surgeries
this past year and he is medically incapacitated.

Defendant is ordered to give notice.

12/15/2015

Appendix—C

SUPREME COURT
FILED

JUL 11 2018

Court of Appeal, Second Appellate District, Division Five - No. B270403

Jorge Navarrete Clerk

S249196

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

MICHAEL DEUSCHEL, Plaintiff and Appellant,

v.

USC FACULTY DENTAL PRACTICE et al., Defendants and Respondents.

The petition for review is denied.

CANTIL-SAKAUYE
Chief Justice

Appendix—D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/19/15

DEPT. 53

HONORABLE STEVEN J. KLEIFIELD

JUDGE

M. RIVERA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

#

C. VAUGHN, C.A.

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff IN PRO PER (X)
Counsel

MICHAEL DEUSCHEL

VS

Defendant BY ARMEN DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE
THE TRIAL AND STAY ALL JUDICIAL AND PROCEDURAL
ACTIONS DUE TO MEDICAL INCAPACITATION;

Matter is called for hearing in department 53, as
department 51 is dark this date.

Counsel for the defendant waives objection over
defects in plaintiff's ex parte application.

Ex parte application is granted over the counsel for
the defendant's objection.

All future hearing dates, included the reserved
Motion for Summary Judgment are advanced to this
case and vacated.

The court orders this case stayed until further
order of the court.

The court sets this case for a Case Management
Conference on May 15, 2015 at 08:30am in
Department 51.

Plaintiff verifies that the PO BOX address on
file is the correct address for service, and counsel
for the defendant agrees to serve courtesy copy
of filings via email on the plaintiff.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/19/15

DEPT. 53

HONORABLE STEVEN J. KLEIFIELD

JUDGE

M. RIVERA

DEPUTY CLERK

HONORABLE
#

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. VAUGHN, C.A.

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff
Counsel

IN PRO PER (X)

MICHAEL DEUSCHEL

VS

Defendant
Counsel

BY ARMEN DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

NATURE OF PROCEEDINGS:

Notice by Counsel for Defendant.

02/24/2015

Appendix—E

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 05/19/15

DEPT. 51

HONORABLE MITCHELL L. BECKLOFF

JUDGE

M.. FREGOSO

DEPUTY CLERK

HONORABLE
#1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. ALBA, CA

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff NO APPEARANCE
Counsel

MICHAEL DEUSCHEL

VS

Defendant ARMEN G. DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

CASE MANAGEMENT CONFERENCE;

Matter is called for hearing.

The court finds that plaintiff has failed to appear.

This matter was originally set for May 15, 2015 and continued to todays date. Plaintiff did not receive the Notice of Continuance.

The court further finds that a stay in in effect. The case is ordered stayed until July 31, 2015.

The Case Management Conference is continued to August 28, 2015 at 8:30 a.m. in this Department.

Defendant's two discovery motions filed herein on December 10, 2014 are set for hearing on August 28, 2015 at 8:30 a.m. in this Department.

Defense counsel shall give notice.

05/19/15

Appendix—F

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/09/15

DEPT. 51

HONORABLE JOSEPH R. KALIN

JUDGE

M. HENDERSON

DEPUTY CLERK

HONORABLE
#1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. HERNAND, C.A.

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff

PRO PER (X)

Counsel

(via court call)

MICHAEL DEUSCHEL

VS

Defendant

ARMEN G. DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANTS USC OSTROW SCHOOL OF DENTISTRY
FOR AN ORDER ESTABLISHING THE TRUTH OF MATTERS
SPECIFIED IN REQUESTS FOR ADMISSIONS, SET TWO, TO
PLAINTIFF MICHAEL DEUSCHEL AND FOR MONETARY
SANCTIONS IN THE AMOUNT OF \$615.00 AGAINST
PLAINTIFF AND COUNSEL;

MOTION OF DEENDANTS USC OSTROW SCHOOL OF DENTISTRY
TO COMPEL RESPONSES TO DEFENDANT'S SPECIAL
INTERROGATORIES (SET NO. TWO) AND DEMAND FOR
PRODUCTION OF DOCUMENTS (SET NO. THREE);
REQUEST FOR SANCTIONS IN THE AMOUNT OF \$661.25
AGAINST PLAINTIFF AND COUNSEL PURSUANT TO C.C.P.
2030.290, 2031.300, 425.11 AND 128.5;

CASE MANAGEMENT CONFERENCE

Matter is called for hearing.

Court, counsel and self represented plaintiff confer.

All of the defendant's scheduled motions set for
today are continued to October 22, 2015 at 8:30 a.m.
in this Department.

A jury trial is set for September 13, 2016 at
8:30 a.m. in this Department.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/09/15

DEPT. 51

HONORABLE JOSEPH R. KALIN

JUDGE

M. HENDERSON

DEPUTY CLERK

HONORABLE
#1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. HERNAND, C.A.

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff

PRO PER (X)

Counsel

(via court call)

MICHAEL DEUSCHEL

VS

Defendant

ARMEN G. DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

A final status conference is set for September 7,
2016 at 8:30 a.m. in this Department.

Counsel for defendant to give notice.

Appendix—G

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/29/15

DEPT. 51

HONORABLE MICHAEL J. RAPHAEL

JUDGE

R. DUARTE

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. ALBA, CA

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff
Counsel

IN PRO PER:
MICHAEL DEUSCHEL (CC)

MICHAEL DEUSCHEL

VS

Defendant
Counsel

ARMEN DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

NATURE OF PROCEEDINGS:

PLAINTIFF'S EX PARTE REQUEST FOR RECONSIDERATION OF HIS REQUEST TO STAY ALL MATTERS DUE TO HIS MEDICAL INCAPACITATION, AND HIS RESPONSE TO THE ORDER TO SHOW CAUSE AND TO SANCTION HIM;

The matter is called for hearing.

After oral argument, plaintiff's ex parte request, as captioned above, is DENIED.

Clerk to give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the above entitled minute order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/29/15

DEPT. 51

HONORABLE MICHAEL J. RAPHAEL

JUDGE

R. DUARTE

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. ALBA, CA

Deputy Sheriff

NONE

Reporter

8:30 am

BC496864

Plaintiff

IN PRO PER:

Counsel

MICHAEL DEUSCHEL (CC)

MICHAEL DEUSCHEL

VS

Defendant

ARMEN DERIAN (X)

USC FACULTY DENTAL PRACTICE ET

Counsel

NATURE OF PROCEEDINGS:

Dated: September 29, 2015

Sherri R. Carter, Executive Officer/Clerk

By:

R. Duarte

Deuschel, Michael
P.O. Box 641411
Los Angeles, CA 90064

Fraser, Stephen C., Esq.
FRASER WATSON & CROUTCH LLP
100 W. Broadway, Suite 650
Glendale, CA 91210

**Additional material
from this filing is
available in the
Clerk's Office.**