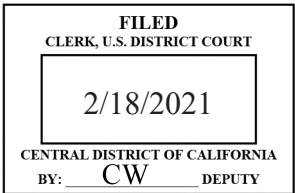


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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION**

GILBERT SALINAS,

Plaintiff,

v.

**APPLE TEN SPE CAPISTRANO, INC.,
a California Corporation; RESIDENCE
INN BY MARRIOTT, LLC, a Delaware
Limited Liability Company,**

Defendants.

Case No.: SACV 20-02379-CJC (DFMx)

**ORDER GRANTING DEFENDANTS’
UNOPPOSED MOTION TO DISMISS
[Dkt. 11] AND DISMISSING
COMPLAINT WITH PREJUDICE**

I. INTRODUCTION

Plaintiff Gilbert Salinas filed this action in Orange County Superior Court, alleging that Defendants Apple Ten SPE Capistrano, Inc. and Residence Inn by Marriott, LLC violated the Americans with Disabilities Act (“ADA”) and California’s Unruh Civil Rights Act (“Unruh Act”). (Dkt. 1, Ex. 1 [Complaint].) On December 18, 2020,

1 Defendants removed the case to this Court. (Dkt. 3 [Amended Notice of Removal].)
2 Before the Court is Defendants’ motion to dismiss the Complaint. (Dkt. 11 [hereinafter
3 “Mot.”].) Plaintiff filed no opposition. For the following reasons, Defendants’ motion is
4 **GRANTED**, and Plaintiff’s Complaint is **DISMISSED WITH PREJUDICE**.¹

5
6 **II. BACKGROUND**

7
8 Plaintiff is a paraplegic and uses a wheelchair for mobility. (Compl. ¶ 1.)
9 Defendants owns and operates the Residence Inn by Marriott by Dana Point, San Juan
10 Capistrano (the “Hotel”). (*Id.* ¶ 2.) Plaintiff planned to travel to San Juan Capistrano,
11 California in October 2020 and chose to stay at the Hotel because it “was at a desirable
12 price and location.” (*Id.* ¶¶ 12–13.) Plaintiff requires an accessible guestroom with
13 certain features, including “clearance around beds,” “accessible sinks, accessible tubs or
14 showers and accessible toilets,” “sufficient maneuvering clearance,” and “accessories to
15 be located within an accessible reach range.” (*Id.* ¶ 14.) Plaintiff went to reserve a room
16 on the Hotel’s website (the “Website”) on September 18, 2020. (*Id.* ¶ 15; Dkt. 11-2,
17 Exs. 1, 2².) However, Plaintiff found that the information Defendants provided on the
18 Website about the accessibility of the rooms was too “vague and conclusory.” (*Id.* ¶ 16.)

19
20 Because of this alleged lack of detail, Plaintiff claims that Defendants violate the
21 ADA’s “Reservation Rule” which requires reservation systems to, in relevant part,
22 “[i]dentify and describe accessible features in the hotels and guest rooms offered through

23
24
25 ¹ Having read and considered the papers presented by the parties, the Court finds this matter appropriate
26 for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set
for March 8, 2021, at 1:30 p.m. is hereby vacated and off calendar.

27 ² The Court takes judicial notice of screenshots of the Website, (Dkt. 11-2, Exs. 1, 2), as “document[s]
28 whose contents are alleged in the complaint” and on which the complaint “necessarily relies.” *See Spy*
Optic, Inc. v. Alibaba.com, Inc., 163 F. Supp 3d 755, 763 (C.D. Cal. 2015) (taking judicial notice of
screenshots of the defendant’s website).

1 its reservations service in enough detail to reasonably permit individuals with disabilities
2 to assess independently whether a given hotel or guest room meets his or her accessibility
3 needs.” (*Id.* ¶¶ 22–23 [citing 28 C.F.R. § 36.302(e)(ii)].) Plaintiff asserts claims under
4 the ADA and California’s Unruh Civil Rights Act. (*Id.* ¶¶ 17, 20–27.)
5

6 **III. LEGAL STANDARD**

7

8 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the legal
9 sufficiency of the claims asserted in the complaint. The issue on a motion to dismiss for
10 failure to state a claim is not whether the claimant will ultimately prevail, but whether the
11 claimant is entitled to offer evidence to support the claims asserted. *Gilligan v. Jamco*
12 *Dev. Corp.*, 108 F.3d 246, 249 (9th Cir. 1997). Rule 12(b)(6) is read in conjunction with
13 Rule 8(a), which requires only a short and plain statement of the claim showing that the
14 pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2). When evaluating a Rule 12(b)(6)
15 motion, the district court must accept all material allegations in the complaint as true and
16 construe them in the light most favorable to the non-moving party. *Moyo v. Gomez*,
17 32 F.3d 1382, 1384 (9th Cir. 1994).
18

19 However, “the tenet that a court must accept as true all of the allegations contained
20 in a complaint is inapplicable to legal conclusions.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
21 (2009); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (stating that while
22 a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual
23 allegations, courts “are not bound to accept as true a legal conclusion couched as a factual
24 allegation” (citations and quotes omitted)). Dismissal of a complaint for failure to state a
25 claim is not proper where a plaintiff has alleged “enough facts to state a claim to relief
26 that is plausible on its face.” *Twombly*, 550 U.S. at 570.
27

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1 **IV. ANALYSIS**

2
3 Central District Local Rule 7-12 provides that “[t]he failure to file any required
4 document, or the failure to file it within the deadline, may be deemed consent to the
5 granting or denial of the motion.” “Failure to follow a district court’s local rules is a
6 proper ground for dismissal.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Because
7 Plaintiff failed to file any opposition by the February 15, 2021 deadline, the Court could
8 grant Defendants’ motion to dismiss on this ground alone. Nevertheless, the Court turns
9 to the merits.

10
11 Defendants’ website satisfies ADA guidelines for hotels providing accessibility
12 information on websites. A hotel’s website need not list its compliance or non-
13 compliance with every provision of the Americans with Disabilities Act Accessibility
14 Guidelines. Rather, DOJ Guidance provides:

15
16 The Department recognizes that a reservations system is not
17 intended to be an accessibility survey. . . . For hotels that were
18 built in compliance with the 1991 Standards, it may be
19 sufficient to specify that the hotel is accessible and, for each
20 accessible room, to describe the general type of room (e.g.,
21 deluxe executive suite), the size and number of beds (e.g., two
22 queen beds), the type of accessible bathing facility (e.g., roll-in
23 shower), and communications features available in the room
24 (e.g., alarms and visual notification devices). . . . For older
25 hotels with limited accessibility features, information about the
26 hotel should include, at a minimum, information about
27 accessible entrances to the hotel, the path of travel to guest
28 check-in and other essential services, and the accessible route to
the accessible room or rooms.

28 C.F.R. pt. 36 app. A (2010). Further, the guidance acknowledges that “individuals
with disabilities may wish to contact the hotel or reservations service for more detailed
information.” *Id.*

1 Defendants’ Website provides the accessibility information required to satisfy the
 2 ADA. The Website lists the following accessibility features:

Accessibility Close ^

For more information about the physical features of our accessible rooms, common areas, or special services relating to a specific disability, please call +1 949-443-3600.

<p>Accessible Areas with Accessible Routes from Public Entrance</p> <ul style="list-style-type: none"> Business Center Fitness Center Meeting spaces and ballrooms Pool accessible Pool pathway Public entrance alternative Registration Desk Pathway Registration desk 	<p>Accessible Hotel Features</p> <ul style="list-style-type: none"> Accessible Self-parking Service animals are welcome Elevators 	<p>Guest Room Accessibility</p> <ul style="list-style-type: none"> Accessible guest rooms with 32" wide doorways Accessible route from public entrance to accessible guest rooms Alarm clock telephone ringers Bathroom grab bars Bathtub grab bars Bathtub seat Door night guards, lowered Doors with lever handles Electrical outlets, lowered Flashing door knockers Hearing accessible rooms and/or kits No transfer shower s available Roll-in shower Shower wand, adjustable TTY/TTD available TV with close-captioning Toilet seat at wheelchair height Vanities, accessible Viewports, lowered
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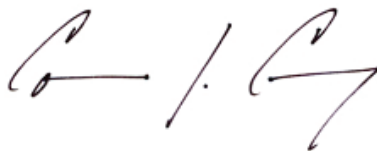
20 Defendants’ website also notes that “[f]or more information about the physical features of
 21 our accessible rooms, common areas, or special services relating to a specific disability,
 22 please call +1 949-443-3600.” (*Id.*); see <https://www.ada.gov/websites2.htm> (“An
 23 agency with an inaccessible website may also meet its legal obligations by providing an
 24 alternative accessible way for citizens to use the programs or services, such as a staffed
 25 telephone information line.”). This information more than satisfies Defendants’
 26 obligation under § 36.302(e)(ii). Accordingly, Defendants’ motion to dismiss is
 27 **GRANTED.**

1 Defendants' website plainly satisfies their legal obligations, and Plaintiff filed no
2 opposition to this motion. Because amendment would be futile, Plaintiff's Complaint is
3 **DISMISSED WITH PREJUDICE**. See *Levine v. Safeguard Health Enters., Inc.*, 32 F.
4 App'x 276, 278 (9th Cir. 2002).

5
6 **V. CONCLUSION**

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8 For the foregoing reasons, Defendants' unopposed motion to dismiss is
9 **GRANTED** and Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.

10
11 DATED: February 18, 2021



12
13 HON. CORMAC J. CARNEY

14 UNITED STATES DISTRICT JUDGE
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