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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Francie E. Moeller,

No. C 02-5849 PJH (JL)

Plaintiff,

v.

**ORDER DENYING WITHOUT  
PREJUDICE PLAINTIFFS' MOTION TO  
COMPEL DISCOVERY (Docket # 361)**

Taco Bell Corporation, et al.,

Defendants.

The Court received briefing and heard argument on Plaintiffs' motion for an order compelling Defendant to produce documents and information, withheld by Defendant as privileged, related to modifications and alterations made by Alianza Development International, LLC ("Alianza") at the 20 Taco Bell corporate restaurants that were the subject of the trial formerly scheduled to begin on November 10, 2008 ("Bellwether Restaurants"). (Docket # 361).

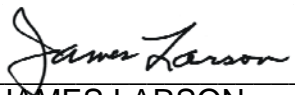
While this discovery motion was under submission, the district court issued a case management and scheduling order (Docket # 386) which sets the discovery deadlines for Plaintiffs' claims under the Americans with Disabilities Act ("ADA") well into mid-2009. The hearing on dispositive motions on the subject of ADA liability will be held September 23, 2009.

1 But even before that issue is considered, the parties will brief Defendant's motion for  
2 partial summary judgment on the statute of limitations as applied to claims under both the  
3 Fair Housing Act and the ADA. The hearing on that motion will be held September 23,  
4 2008. If successful, Taco Bell claims that its motion would significantly narrow the scope  
5 and complexity of the case given that approximately half of the stores at issue are "new  
6 construction" because they were built after January 26, 1993. If successful, Taco Bell's  
7 motion would also clarify that plaintiffs have to meet the "readily achievable" legal standard  
8 for approximately 110 stores that were constructed before January 26, 1993 instead of the  
9 potentially complex "alterations" legal standard and its 20% disproportionality analysis. 28  
10 C.F.R. § 36.403(a) & (f)(1).

11 This Court finds that the contours of this case may be significantly altered by the  
12 district court's ruling on Taco Bell's motion for partial summary judgment on the statute of  
13 limitations and that the time line for discovery on ADA liability has been extended. The  
14 discovery which is the subject of the motion before this Court may or many not be relevant,  
15 depending on the district court's ruling. Accordingly, in the interest of judicial economy and  
16 to facilitate the case's progress with less distraction and expense, this Court hereby denies  
17 Plaintiffs' motion without prejudice to renewal later in the case.

18 IT IS SO ORDERED.

19 DATED: July 8, 2008

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23 JAMES LARSON  
24 Chief Magistrate Judge  
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