



The Hidden Perils of Disability Access

Publication

When your retail establishment opens its doors for business each morning, you could be walking into a hidden lawsuit. For some of your customers, filing disability access lawsuits under the Americans with Disabilities Act (ADA) is a way of life. And these customers could decide to visit your business next.

Maybe your stores in the Philadelphia area will receive a visit from Warren Lloyd, who filed over 30 ADA lawsuits in 2004 alone. Kornel Botosan may stop by your Northern California stores, as he has filed more than 200 ADA cases in that area. Your Southern California stores may encounter Jarek Molski, a man in a wheelchair who has filed almost 400 lawsuits for ADA violations. If you are lucky enough to have a store in Hawaii, perhaps you will get a visit from Ted Omholt's mother-in-law, who Ted has used as a plaintiff in over 500 lawsuits he has filed on her behalf. Or maybe your Florida locations will meet John Mallah and his elderly uncle – John is an attorney in Miami who has launched ADA complaints against more than 700 businesses on behalf of his uncle. George Louie may pop into any of your stores across the country – he has sued well over 500 establishments for ADA violations and recovered \$500,000 in damages in one year alone.

Most retail establishments know that they need to offer harassment and discrimination training to their managers in order to educate them on workplace boundaries, and most managers know how to spot those inappropriate issues. But many businesses do not realize that managerial training on Title III access issues can be just as important. For example, do your managers know not to enforce the "No Pets Allowed" requirement if a customer brings a service animal into your store? Do they know the importance of providing equal service to all customers, including the physically or mentally disabled? What if your store only allows one person in a dressing room at a time, and a mentally disabled customer requires companion assistance – will your managers know to be flexible in enforcing the policy? Will your managers train employees to offer help to patrons who are unable to reach higher shelves because of disabilities? Rather than crossing your fingers and hoping that your managers know how to comply with Title III, it makes good sense to offer training in these areas, perhaps incorporating the important concepts into your general equal opportunity training sessions.

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