

Practical Steps Businesses Can Take to Avoid Disability Access ADA Lawsuits

California leads the nation in the number of lawsuits filed under the Americans with Disabilities Act (ADA). Since 2005, more ADA lawsuits were filed in California than Florida, Pennsylvania, Texas and New York combined.

Not only can plaintiffs force businesses to spend substantial sums of money to fix ADA violations, California state law also allows plaintiffs to recover statutory damages that can be thousands of dollars per violation. Attorneys' fees for prevailing parties are available both under the ADA and California state law. This further increases the amount defendants may have to pay if they lose an ADA lawsuit.

Generally speaking, any business that is open to the public must comply with both state and federal disability access laws. These include over five million private establishments such as restaurants, hotels, theaters, hospitals, retail stores and warehouses.

How can businesses limit their exposure to disability access lawsuits? The following are some practical steps that businesses providing goods or services to the general public can take to limit their liability under the ADA and California disability access laws.

- Commercial landlords and tenants should have their properties inspected by a disability access expert to determine if there are any potential ADA violations which can lead to litigation. For commercial tenants, these inspections should occur before they sign their leases.
- Landlords renting out shell spaces that tenants are going to improve, should have their own access specialists go through the building plans to ensure that the final improvements comply with federal and state disability access laws. Once the improvements are completed, a final inspection should also be performed before the tenant begins conducting business on the premises.
- Commercial tenants should have indemnity provisions in place before they sign their leases to ensure that the landlord reimburses them for the cost of defending ADA lawsuits.
- Landlords who have already been sued may want to remedy violations as soon as possible in order to reduce statutory damages.
- If you receive a letter or notice from a plaintiff seeking to sue, don't ignore it.

Some of the lawyers who file numerous ADA-related lawsuits against businesses in California are looking to collect settlements without having to do much by way of actually litigating a case beyond the complaint stage. The best strategy is to work with an experienced lawyer to identify the business' strongest defenses on the merits to avoid the violations that are most likely to result in prolonged litigation.

If you have any questions or comments, I would be delighted to hear from you.

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