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Take steps to ensure your hotel is safe and accessible for the disabled – while protecting yourself from the latest round of serial lawsuits.

By Caroline Larsen
Shareholder
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
602-778-3756
caroline.larsen@odnss.com

As one flood of lawsuits against Arizona businesses finally dries up, another downpour begins. On November 13, 2017, an Arizona judge signed an order that finalized the dismissal of more than 1,100 lawsuits against Arizona businesses that had been sued for allegedly failing to offer enough accessible parking spaces for the disabled, or failing to mark parking spaces with adequate signage. The Honorable David M. Talamante accepted a stipulation between the Arizona Attorney General and Plaintiffs David Ritzenthaler, Advocates for American Disabled Individuals LLC, and Advocates for Individuals with Disabilities Foundation, Inc. (AID) to bring these cases to a close, and restrict Mr. Ritzenthaler and AID from filing any future lawsuits alleging violations of the Arizonans with Disabilities Act (AzDA) or Title III of the Americans with Disabilities Act of 1990 (ADA). The Attorney General's office agreed to withdraw its motion for sanctions against AID and, in exchange, AID agreed to pay \$25,000 to establish a fund to educate and assist businesses regarding compliance with the AzDA and ADA.

In the meantime, the same attorney who filed all 1,100+ lawsuits, Peter Strojnik, has filed approximately 60 new ADA lawsuits in the last three months in the Arizona United States District Court on behalf of a single plaintiff, Fernando Gastelum, an Arizona resident who uses a wheelchair or prosthetic leg. All of the suits are against Arizona motels and travel lodges and claim that Mr. Gastelum visited the motel's website to determine if the property contained the accessible features necessary for him to be able to stay there. He claims that the websites failed to disclose sufficient information about their accessibility, and that upon visiting each hotel, he discovered barriers to access, including a lack of accessible parking spaces, steep ramps, stairs with open risers, and other alleged ADA violations. He seeks orders requiring the motels to remove the alleged access barriers and revise their websites, as demands damages, including punitive damages, and attorneys' fees.

What Can Your Business Do?

These kinds of lawsuits remain on the rise around the country. Hotel, motel, and resort owners in Arizona and other states should carefully assess their physical places of business, their websites and online reservation systems, and the way they provide their services to ensure that they comply with the ADA. Issues to look for include:

- Disclosing details about the accessible features of the property and the ADA accessible guestrooms, including the type and number of beds and whether the rooms include a bathtub or a roll-in shower.

- Providing the required minimum number of accessible parking spaces, including van accessible spaces for guests who use lift-equipped vans
- Ensuring the room reservation system allows individuals with disabilities the same access to make reservations as non-disabled guests, and that all comparable room types are rented before the accessible guestrooms
- Offering registration counter space that is low enough for a person in a wheelchair to fill out registration forms, or offering a folding shelf for their use
- Providing an accessible way for people with disabilities to enter and exit pools and spas, such as a pool lift or sloped entry
- Offering the required number of accessible guestroom for the disabled, including rooms with roll-in showers if the hotel has more than 50 guestrooms
- Training staff to offer assistance to persons with disabilities who need help transporting their luggage to their guestrooms or to respond to other requests for assistance

If you have been the target of a lawsuit by a disabled guest, have questions about making your hotel accessible for the disabled, or would like to have your property inspected for potential violations of the ADA, contact local ADA expert Caroline Larsen of Ogletree, Deakins, Nash, Smoak & Stewart, P.C. at 602-778-3756 or caroline.larsen@odnss.com to learn more.

You can also find a checklist of the most common ADA issues at hotels at the Department of Justice's website at <https://www.ada.gov/hsurvey.htm>.

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