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Rights of the disabled are protected by the law

If you work with or parent a person with a disability who needs to access public services in the area, this is great information:

Failure or refusal to provide a service that is offered to other people to a disabled person is discrimination. Under the DDA (Disability Discrimination Act) it is unlawful for service providers to treat disabled people less favorably than other people for a reason related to their disability.

Service providers now have to make "reasonable adjustments" to the way they deliver their services so that disabled people can use them.

Recently my son was denied access to a local skating rink because of his disability. He was told that he could come back and skate when the cleaning crew was there.

Attorneys and advocates for the Disability Rights of North Carolina organization (www.disabilityrightsn.org) stepped in and made it clear to the owners of the rink that they should change their stance or face a lawsuit they wouldn't win. Restrictions were removed and he can again enjoy skating with everyone else.

Allowing disabled people access to public services is not only the right thing to do, it's the law.

Donna Pless
High Point

Posted by News & Record on April 7, 2009 3:00 AM | [Permalink](#)

Comments (12)

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neocon

said:
A skating rink is 'public service'?
How far we have come...

Posted on April 7, 2009 6:35 AM

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ghost from white oak



said:

" Service providers now have to make "reasonable adjustments" to the way they deliver their services so that disabled people can use them."

"Allowing disabled people access to public services is not only the right thing to do, it's the law."

While I know what you are saying, The problem comes from how one defines "reasonable adjustments"

Posted on **April 7, 2009 9:39 AM**

critical thinker



said:

Neo,

The LTE writer is slightly off in her terminology. Title III of the Americans with Disabilities Act provides that no individual shall be discriminated on a basis of disability in the full and equal enjoyment of the privileges of any places of public accommodation. See 42 USC 12182(a). I assume she means public accommodation when she refers to public service. As defined by the Act, "public accommodations" include, among other places, hotels, restaurants, theaters, auditoriums, bakeries, laundromats, terminals, museums, parks, and insurance offices. See 42 USC 12131(7). A good rule of thumb is that places that offer services to the public are the places of public accommodation.

Ghost,
The "reasonable adjustments" that you speak of are limited to making the places of public accommodation accessible to disabled persons. 42 U.S.C. §§ 12181-88. Therefore, the courts generally impose injunctive relief (i.e. making service providers to either do or refrain from doing something) in order to accommodate disabled individuals.

Lastly, kudos to Disability Rights NC, they seem like a very competent organization.

Posted on **April 7, 2009 10:33 AM**

critical thinker



said:

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Lastly, kudos to Disability Rights NC, they seem like a very competent organization.

Posted on **April 7, 2009 10:34 AM**

Carol Dunn



said:

I would be interested in knowing of the child's disability...some kids with mental disabilities are often out of control in public places. It would seem that this is the case. I would think that a physical disability would prevent one from skating.

Posted on **April 7, 2009 7:22 PM**

neocon



said:

42 USC 12182(a), huh?

Hmm...

Posted on **April 7, 2009 8:21 PM**

Dan



said:

CT, I read this letter and had never heard of the Disability Discrimination Act. I've known ADA since it's inception and thought this may be something similar added on top.

"Attorneys and advocates for the Disability Rights of North Carolina organization (www.disabilityrightsn.org) stepped in and made it clear to the owners of the rink that they should change their stance or face a lawsuit they wouldn't win."

You're damned right they would.

And if the child with the disability were injured or someone else were injured by the child with the disability they would be sued as well. The rink owners are screwed either way.

I used to work with an occupational health and safety consulting firm in the 90's and saw a myriad of ways ADA was abused.

But my favorite ADA suit of all times is a former IBM guy who sued after getting fired for visiting sexual chat rooms at work. He claimed the porn chat rooms relieved his Vietnam-inflicted post traumatic stress disorder and was therefore covered under ADA.

http://technology.timesonline.co.uk/tol/news/tech_and_web/t

Gotta love America.

Posted on **April 7, 2009 9:38 PM**

critical thinker



said:

Dan,

I am not sure what the point of your post was. If you are saying that ADA is sometimes abused, you are right. Are you suggesting Congress should not have passed ADA because some people file frivolous lawsuits? I would imagine the case you referenced went nowhere because the IBM's guy's disability would not be reasonable accommodated by visiting sex chatrooms at work. In any event, you are talking apples and oranges here. Employment discrimination is Title I of the ADA, not Title III.

What is your point?

Posted on **April 7, 2009 11:16 PM**

truman



said:

critical thinker, i believe dan talks apples and oranges a lot, and quite often his points make no points, and he seems to be afar right-wing ideologue. in other ways, he seems to be a fairly respectable person. i think.

Posted on **April 8, 2009 12:03 AM**

Dan



said:

CT, I'm not against the ADA and fully believe we should make attempts to accommodate people with handicaps including not being a moron and parking in handicap designated parking spaces.

The writer didn't indicate what type of disability her son has. She did indicate that he was told he could come back when the cleaning crew was there, I guess meaning when there are less or no people on the rink. Perhaps the operators thought skating with his disability with others present could endanger him or others. We don't know but that's what I gather from it.

The writer did indicate the threat of litigation to the rink owners if they didn't concede. My point is there is now another potential source of litigation if this child or others were injured because of this concession. Thus the rink owners face the threat of litigation either way. Understand?

The "reasonable accommodation without undue hardship" clause of the ADA is very vague. The firm I worked for often represented employers in litigation when they felt such accommodations did provide undue hardship. It was within another division of the company, so I was not personally involved in this type of work, just heard the stories.

The best one was from a guy who worked on a wood lathe. He claimed the vibration from the lathe made him sexually aroused during the day, hence he couldn't "perform" for his wife at night, thus a disability. He asked for "reasonable accommodations" to reduce the vibration of the lathe and sued the employer and the manufacturer of the lathe. Of course it didn't get anywhere but the company had to use financial resources to defend itself.

As for the IBM guy, just the fact that this suit even occurred represents the blatant greed of some individuals who abuse a law written to help those with disabilities regardless of Title, Section or Code. Are you an attorney?

Posted on **April 8, 2009 9:21 AM**

critical thinker



said:

Dan,

I see your point more clearly now. You are right to suggest that most prescriptive laws (i.e. laws that mandate that X do or not do something) expose employers and business owners to increased risks of litigation. Some of that litigation is undoubtedly frivolous, but the majority of it is meritorious. It seems you are upset that frivolous litigation increases costs of doing business, which is a reasonable concern. Perhaps this concern will be lessened when you realize that many of these statutes include attorney fees provisions, which require defendants to recoup their attorney fees in precisely these kinds of frivolous lawsuits. Of course some litigants are judgment-proof (i.e. poor) so attempting to recoup money from them is an exercise in futility.

In any event, my personal opinion is that the anti-discrimination laws are worth it. Yes, they increase litigation costs and generate lots of ridiculous lawsuits, but they also function as an effective deterrent to unscrupulous employers seeking to cut costs by unfairly targeting people based on their race, age, national origin, disability, etc. Plus, these laws, in conjunction with class-action rules, are often the only vehicle for people willing to stand up to institutionalized prejudice.

I will not burden you with a legal primer on what "undue hardship" under the ADA means. Suffice it is to say that the courts have fashioned a pretty comprehensive set of rules governing what accommodations qualify and why. Believe me when I say it - the ADA has been one of the best drafted pieces of legislature (in terms of its clarity) coming out of Congress in the past two decades. It generated remarkably little disagreement and little in terms of public controversy.

And yes, I am an attorney.

Posted on **April 8, 2009 4:39 PM**

Dan



said:

"And yes, I am an attorney."

I knew it. Anyone who knows sections and titles of a code like you do is either an attorney or a non-attorney consultant. I am a non-attorney consultant, but not with ADA issues.

In consideration of full disclosure, are you involved in ADA litigation and therefore have a vested financial interest in the subject?

I have to admit the consulting firm I worked with made good money defending employers against ADA cases. Not to say they weren't honest, if they felt a plaintiff's case was meritorious (fancy way of saying it had merit) they would advise the employer of such. But they also made money defending employers of frivolous cases such as the "sexual lathe" case. Doesn't that one take the cake?

As for the letter, I would conclude that more information is needed wouldn't you? And for the record, I don't support discrimination of disabled people, but also recognize the potential liabilities of business owners, employers and others when attempting to accommodate them.

Good discussion, thanks for your views CT.

Posted on **April 8, 2009 7:23 PM**

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