Americans with Disabilities Act Experience

Enacted in 1990, the Americans with Disabilities Act (ADA) prohibits discrimination based on disability in access to public accommodations and in employment. While this law has resulted in increased access by disabled persons to facilities and job opportunities, it has also spawned a lucrative specialty for plaintiffs’ attorneys who file thousands of ADA and related state law cases across the country each year. The law in this area is complex with regard to the definition of a disability, required accommodations, businesses that are covered and structural changes that must be made to premises. As a result, companies confronted with a lawsuit or simply wishing to remain in compliance need experienced legal counsel.

Sedgwick’s attorneys have represented clients in this area of the law since its inception, including privately owned businesses and governmental entities, in both access and employment ADA cases. Our firm defends clients against claimed violations, using our experience in these cases to minimize client exposure. We also counsel clients on compliance issues and work with them to draft appropriate policies to avoid litigation.

Access

The ADA applies to any business that provides goods or services to the public and requires the removal of barriers that prevent access by disabled persons when doing so is “readily achievable.” This standard depends in large part on the size of the business, its financial means and the expense associated with the changes. The law grants to private citizens the right to sue a business for even minor infractions and seek injunctive relief and attorneys’ fees. In states with related laws, plaintiffs also have the right to pursue statutory penalties. For example, California’s Unruh Civil Rights Act allows for a minimum of $4,000 in penalties for each violation.

Sedgwick’s commercial litigation attorneys have represented many property owners and tenants in ADA access cases, including department stores, gas stations, hospitals, marinas, restaurants and retail malls. We have also counseled counties, municipalities, transportation companies, and commercial office and residential apartment complex owners in this area of the law. Working with certified access experts, we conduct a 360-degree review of business premises and operations and advise clients on cost effective preventative changes to physical structures and operations that should be made before any claims may be brought. We bring this same business-focused strategy to the defense of clients who have already been accused of ADA violations, working quickly to fight unjustified allegations, effect changes when necessary and minimize litigation expenses.

Representative Access Matters

- Representation of a Fortune 10 energy company in ADA compliance issues for its West Coast service stations
- Representation of a public entity against claims of inadequate disabled parking and street/sidewalk impediments
- Defense of a shopping mall in ADA litigation
- Representation of a retail shopping center in Title III ADA access cases
- Representation of city in Title II access case concerning area of major tourist draw
- Representation of industrial painting contractor when ADA accessibility upgrades were triggered for an entire building by ordinance based on the cost of unrelated repairs
- Litigation of ADA cases involving physical barriers, parking and service animals for municipal and state governments
- Securing approval of building permits from a municipal Access Appeal Commission on behalf of an elevator company
- Representation of a restaurant in a case involving lack of wheelchair access
- Advising a rehabilitation center on ADA access issues
- Advising commercial property owners on best practices to address barriers and avoid litigation proactively

**Employment**

The ADA prohibits private employers, state and local governments from discriminating against qualified persons with disabilities in hiring, advancement, compensation and other terms and conditions of employment. It also requires that an employer makes a reasonable accommodation for a qualified applicant or employee if it would not pose an undue hardship on the operations of the employer’s business. Such an accommodation varies depending on the needs of the person with the disability.

Sedgwick’s employment attorneys advise businesses on the intricacies of and differences between ADA and state non-discrimination laws. We work with employers to develop and implement policies and procedures to prevent workplace discrimination, including hiring, recordkeeping, notice, benefits, leave and other policies. We also counsel clients on appropriate accommodations that can be made for employees with disabilities. In those instances where a lawsuit is brought alleging discrimination based on a disability, our attorneys forcefully defend our clients, using their comprehensive experience in this area of law to successfully litigate these cases.

**Representative Employment Matters**

- Defense of a city against allegations of improper termination of a disabled employee
- Defense of employers in disability litigation
- Advising businesses on employment disability law compliance issues
- Representation of employers in failure to provide reasonable accommodation cases
- Drafting ADA policies for and advising employers on pre- and post-employment decisions