

ATTORNEY GENERAL, FEDERAL COURTS PUSH BACK AGAINST SERIAL ADA LITIGATOR

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Advocates for American Disabled Individuals, LLC v. 1639 40th Street, LLC
Superior Court of the State of Arizona, August 30, 2016

Since February 2016, Advocates for Individuals with Disabilities (“AID”) has filed more than 1,500 lawsuits against Arizona businesses, all alleging the businesses failed to comply with the Americans with Disabilities Act (or the state equivalent) mostly due to minor violations of federal parking regulations. These lawsuits can prove costly for small businesses, as AID’s typical opening demand in every lawsuit is \$7,500, with most cases resolving for around \$4,000.

Now, the Arizona Attorney General’s Office and the federal courts are pushing back. Last week, the Attorney General filed a motion to intervene in one of the state court lawsuits, alleging that AID did not have standing to enforce these regulations in private lawsuits. The Attorney General subsequently filed a motion to consolidate the 1,200+ cases filed by AID currently pending in Maricopa County Superior Court. At the same time, federal district court judges have begun issuing Orders to Show Cause, requiring that AID prove that it has standing to bring these claims (meaning that it actually suffered an injury and that a member actually has the intent to return to the business in question). In the next week, AID will have to respond to at least three such orders in federal court.

While these efforts have slowed AID’s litigation, it has not stopped it. Just last Friday – after the Attorney General’s action and the Orders to Show Cause – AID filed another five lawsuits against Arizona businesses alleging failure to comply with the ADA. As a result, Arizona businesses need to remain aware of this potential litigation and ensure their properties (and especially their parking lots) are ADA-complaint.

Mark Zukowski, Steve Leach, Brandi Blair, and David Potts have successfully resolved a number of these cases and are available to discuss their recommendations for resolution of similar claims.

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