

December 2016 - January 2017

VOLUME 12 ISSUE 2

Trainings & Events  
(Central Standard Time)

### ADA Legal Webinar Series

#### Criminal Justice and the ADA

September 21st, 2016 1-2:30 PM CT.

Unfortunately, there are many people with disabilities in the criminal justice system. Back in 1998, the Supreme Court made clear in a case called *Yeskey* that the ADA applies to state prisons. This webinar will review how the ADA has been applied to law enforcement and the criminal justice system, including a discussion of recent litigation involving the segregation of people with mental illness in prisons. Illinois CLE certificate will be provided.

#### Speakers:

[Barry Taylor](#), Director of Legal Services, Equip for Equality

[Rachel M. Weisberg](#), Staff Attorney, Equip for Equality

For more information visit [ADA Audio Conference site](#) at [www.ada-legal.org](http://www.ada-legal.org) call (877) 232-1990.

### ADA Audio Conference Series

#### Rights of Air Travelers with Disabilities and the Air Carriers Access Act

September 27th, 2016 1-2:30 PM CT.

The Air Carrier Access Act of 1986 (ACAA) prohibits discrimination on the basis of disability in air travel and requires air carriers to accommodate the needs of passengers with disabilities. Join us as representatives of the U.S. Department of Transportation (DOT) discuss the requirements of the ACAA as it applies to air carriers web sites and kiosks, service animals, animal relief areas, mobility device stowage, and more. Following the presentation participants will have an opportunity to ask the presenters questions about the ACAA requirements.

#### Speakers:

[Livaughn Chapman](#), Jr. Chief, Aviation Civil Rights Compliance, Branch Office of the General Counsel, U.S. Department of Transportation

[Anne Hammond](#), Transportation Industry Consultant, U.S. Department of Transportation

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### AccessibilityOnline Webinar Series

## News from the Federal Agencies

### U.S. Equal Employment Opportunity Commission (EEOC)

#### EEOC Sues East Coast Labor Solutions for Disability and National Origin Discrimination

An Alabama temporary staffing firm violated federal law by subjecting Latino workers to unequal working conditions and failing to provide accommodations to those with disabilities, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed on Nov. 15. The lawsuit alleges East Coast Labor Solutions refused to accommodate the disabilities of the Hispanic workers, many of whom developed repetitive motion impairments.

[Read more about the EEOC Lawsuit against East Coast Labor Solutions](#)

#### Georgia Power to Pay over \$1.5 Million to Settle EEOC Disability Discrimination Suit

ATLANTA - Georgia Power Company, an electric utility company headquartered in Atlanta, will pay \$1,586,500 to settle a class disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced. The EEOC filed suit in 2013, charging that Georgia Power Company violated federal law by refusing to hire applicants and firing employees based on their disabilities or perceived disabilities.

[Read More about the EEOC Settlement with Georgia Power](#)

#### Stevens Transport Sued By EEOC for Disability Discrimination

DALLAS - Stevens Transport, the largest refrigerated trucking company in Texas and one of the top four largest temperature-controlled carriers in the United States, violated federal law when it failed or refused to hire a U.S. Air Force veteran as a truck driver because of his bipolar disorder, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. According to the EEOC lawsuit, Bill Brown was told that he could not be hired as a truck driver

### **Accessible Signage (A refresher)**

October 6th, 2016 1:30-3:00 PM CT.

This session will provide a refresher on requirements in the ADA and ABA Accessibility Standards for signs.

Presenters will review provisions that address visual access, tactile signs, required access symbols and other pictograms.

#### **Speakers:**

[Paul Beatty](#), Accessibility Specialist, Office of Technical and Information Services, US Access Board

[Dave Yanchulis](#), Coordinator of Public Affairs, US Access Board, Office of Technical and Information Services

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### **AccessibilityOnline Webinar Series**

#### **Accessible Residential Facilities - Advanced**

November 3rd, 2016 1:30-3:00 PM CT.

This session will focus on untangling the web of laws that address access to housing, including the Architectural Barriers Act, the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act.

Presenters will engage in a more "advanced" level discussion of how the design requirements of these laws apply and review requirements in the ADA and ABA Accessibility Guidelines for residential dwelling units.

Participants interested in this session are encouraged to review archived sessions on this topic for a review of the basic provisions.

#### **Speakers:**

[Marsha Mazz](#), Director, Office of Technical and Information Services, US Access Board

[Res Pace](#), Senior Accessibility Specialist and Technical Assistance Coordinator, US Access Board

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### **Accessible Technology Webinar Series**

#### **Accessible IT - A status report on legal milestones**

November 17th, 2016 1-2:30 PM CT.

This presentation will survey the status of accessible tech in governmental and public accommodation websites, voting, higher education, ebooks and employment.

#### **Speakers:**

[Dan Goldstein](#), Founding partner, Brown Goldstein & Le

for Stevens "per company policy" because of the medication he takes to control his bipolar disorder.

#### **[Read More about the EEOC Lawsuit against Stevens Transport](#)**

Bentonville McDonald's To Pay \$103,000 To Settle EEOC Disability Discrimination Suit

A McDonald's restaurant owned and operated by Mathews Management Company and Peach Orchard, Inc. in Bentonville, Ark., will pay \$103,000 and furnish other relief to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced. The EEOC lawsuit challenged McDonald's treatment of an employee when the restaurant fired him within days of learning of his HIV-positive status.

#### **[Read More about the EEOC Settlement with McDonalds](#)**

#### **EEOC Posts Webinar Recording on Wellness Program Rules**

The U.S. Equal Employment Opportunity Commission (EEOC) has posted online a recording of its Oct. 19 webinar about the agency's 2016 rules on employer wellness programs and federal law, the agency announced.

#### **[Access the EEOC Wellness Webinar](#)**

#### **Safeway Will Rehire Store Clerk and Pay \$27,000 to Settle EEOC Disability Discrimination Suit**

Safeway, Inc. will pay \$27,000 in monetary damages and furnish significant relief, including returning an employee to work, to resolve a federal disability discrimination lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced.

#### **[Read More about the EEOC Settlement with Safeway.](#)**

#### **Chemtrusion Sued by EEOC for Disability Discrimination in Hiring**

A Southern Indiana manufacturing Services Company refused to hire or provide reasonable accommodations to a class of job applicants because of medical information it obtained during pre-employment medical examinations, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed on October 19, 2016.

For more information please call 800-949-4232 (Voice/TTY) or Online via [Contact Us Form](#).

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University of Illinois at Chicago  
Department of Disability and Human Development (MC 728)  
1640 West Roosevelt Road, Room 405  
Chicago, Illinois 60608-6904

For more information visit [ADA Accessible Technology site](http://dev.accessibilityonline.org/ada-techor) at <http://dev.accessibilityonline.org/ada-techor> call (877) 232-1990.

### **AccessibilityOnline Webinar Series**

#### **Transient Lodging Q & A**

December 1st, 2016 1:30-3:00 PM CT.

If you are familiar with the basic requirements in the ADA and ADA Accessibility Standards for transient lodging facilities and are ready for a more "advanced" discussion of these provisions, this is the session for you! The Access Board will partner with the American Hotel and Lodging Association to provide an overview of the scoping and technical requirements for transient lodging facilities and to respond to your burning questions. Session participants are encouraged to submit your questions in advance regarding transient lodging facilities to include amenities, such as swimming pools, fitness facilities, spas, restaurants, and conference rooms offered by the facility.

#### **Speakers:**

[Douglas Anderson](#), CASp, R.A.S., Partner, LCM Architects

[Marsha Mazz](#), Director, Office of Technical and Information Services, US Access Board

[Minh Vu](#), Partner and ADA Title III Team Leader, Seyfarth Shaw LLP

For more information visit [AccessibilityOnline](http://www.accessibilityonline.org) at <http://www.accessibilityonline.org> call (877) 232-1990

### [Read More about the EEOC Lawsuit against Chemtrusion](#)

#### **McDonald's to Pay \$56,500 to Settle EEOC Disability Discrimination Suit**

McDonald's Corporation and McDonald's Restaurants of Missouri will pay \$56,500 and furnish other relief to settle a disability discrimination suit by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced. The EEOC had charged that McDonald's refused to interview a deaf job applicant at its Belton, Mo., restaurant because of his deafness.

### [Read More about the EEOC Settlement with McDonald's.](#)

#### **U.S. Department of Justice (DOJ)**

The Department of Justice published in the Federal Register a final rule revising the Justice Department's Americans with Disabilities Act (ADA) Title III regulation to further clarify a public accommodation's obligation to provide appropriate auxiliary aids and services for people with disabilities. The rule will take effect on January 17, 2017.

### [Read More about the Justice Department's Final Rule for Movie Theaters](#)

#### **Justice Department Reaches Settlement Agreement with the City of Detroit**

The settlement resolves a complaint received by the United States Attorney's Office for the Eastern District of Michigan alleging that the Adams Butzel Recreation Center, which is part of the City's Recreation Department, discriminated against a child based on his disability. The complaint alleged that the Center violated title II of the Americans with Disabilities Act (ADA), when it failed to modify its policy banning children from locker rooms designated for the opposite sex to allow a mother to help her pre-school aged son, who has a disability, to use the locker room facilities. The agreement requires the Center to implement reasonable modification of a policies, practices and procedures, post this policy prominently at the Center within ten days of the date of the agreement and to train all Center staff on the policy.

### [Read More about the City of Detroit Settlement with DOJ](#)

#### **World AIDS Day 2016: Honoring Lives Lost by Fighting Discrimination | OPA | Department of Justice**

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The Department of Justice reaffirms the rights of people with HIV/AIDS to live free from stigma and discrimination. For the more than 1.2 million people in the United States with HIV, the ADA guarantees each of them a full and equal opportunity to participate in and benefit from all our nation has to offer. Through our enforcement, education and outreach efforts, the department will continue striving to make the promise of equal treatment a reality for people with HIV and AIDS throughout America. In memory of those we lost from AIDS, and in support of those currently living with HIV, we will forge on with uncompromising resolve until we reach the goal of an AIDS-free generation.

[Read More about World Aids Day 2016](#)

### **Department of Justice Reaches Settlement Agreement with the Arlington County Sheriff**

The settlement agreement resolves a complaint filed with the Justice Department alleging violation of title II of the Americans with Disabilities Act (ADA). Specifically the complaint alleged that the Sheriff's Department failed to communicate effectively and furnish appropriate auxiliary aids and services for a person that is deaf. The settlement agreement requires the Sheriff's Department to conduct a self-evaluation, designate an ADA Coordinator, furnish appropriate auxiliary aids and services, provide telephone equipment that may be used by an inmate that is deaf or hard of hearing, provide visual alarms and pay the complainant \$250,000.

[Read More about the Justice Department Settlement with the Arlington County Sheriff](#)

### **U.S. Department of Transportation (DOT)**

#### **New DOL Report: Navigating the Demands of Work and Eldercare**

The Department of Labor's new report, "Navigating the Demands of Work and Eldercare," shines a light on the millions of workers who provide informal, unpaid eldercare to their aging family, friends and neighbors. The report highlights new data on informal eldercare providers who are also employed outside the home, explores the challenges they face, and outlines policies that address those challenges.

[Read the Department of Labor Report, Navigating the Demands of Work and Eldercare](#)

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## Great Lakes In Focus

### NBDC Commissions 2nd National Public Opinion Survey on Disability

Poll examined the current state of public opinion among consumers in the United States around the issues of awareness and treatment of individuals with disabilities by businesses

The Marketing Anthropology Project (MAP), a program of the National Business & Disability Council (NBDC) at The Viscardi Center, today announced that it commissioned Cygnal to conduct a national survey in mid-September about consumer attitudes on disability. The survey, which was conducted to celebrate National Disability Employment Awareness Month, interviewed consumers whose buying decisions were mostly likely to be influenced by a business' practices toward individuals with disabilities.

"When consumers with disabilities view television programs, movies, online content, or even observe the onslaught of product promotions, there is one thing that is often missing: people like them," summarized Brandon M. Macsata, NBDC General Consultant. "Increasingly though, there is more attention paid to the lack of disability diversity in advertising, marketing, and employment -- especially since it represents the fastest growing consumer market in the world."

MAP is the first-of-its-kind in the disability market, offering a platform for businesses to understand better the pockets of the global disability culture that influence consumer attitudes. The results of the survey will be presented on Monday, December 5th in New York City during a MAP/NBDC Business Roundtable.

#### SOME KEY FINDINGS:

- 73% of consumers will purchase goods and/or services from a business if they knew the business employs individuals with disabilities.
- 66% of consumers will purchase goods and/or services from a business that features individuals with disabilities in their advertising.
- 78% of consumers will purchase goods and/or services from a business that takes steps to ensure easy access for individuals with disabilities at their physical locations.
- 70% of consumers will purchase goods and/or services from a business that takes steps to ensure

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easy access for individuals with disabilities on their website, kiosk, or mobile app.

- 65% of consumers are less likely to purchase goods and/or services from a business that has been fined by the federal or state government because they discriminated against individuals with disabilities.
- About 47% of consumers believe that organizations should accommodate individuals with special needs by request, with respect to a business' approach to consumers with disabilities.
- Most consumers (62%) believe that businesses didn't do enough to market to consumers with disabilities.

Said Cory Brown, Cygnal's Vice-President for Data & Strategy: "What the findings show is that US consumers are highly sensitive to the way businesses treat individuals with disabilities. When deciding how to shop, Americans overwhelmingly take into account how businesses treat their disabled employees; how they feature them in advertising; and how they provide access to their stores or online experiences. Interestingly enough, this seems to stem from a majority of people reporting that they experience some sort of impairment or disability themselves."

The telephone survey was conducted September 12-17, 2016 among 866 U.S. consumers, with a margin of error of +/- 3.33%. Cygnal, using live operator phone technology, conducted all interviews. Landline interviews constituted 77% of the calls, while 23% were conducted by cell phone.

To learn more about NBDC, visit [www.nbdc.com](http://www.nbdc.com). To learn more about Cygnal, please visit [www.cygnal.com](http://www.cygnal.com).

For more information about the national survey or NBDC corporate partnership opportunities, contact Brandon M. Macsata by phone at 516.465.1596 or email at [bmacsata@viscardicenter.org](mailto:bmacsata@viscardicenter.org).

## The Docket

### **Kowitz v. Trinity Health, No. 15-1584, 8th Cir., 2016**

Roberta Kowitz appealed the district court's grant of summary judgment on her claims that her former employer, Trinity Health violated her rights under the Americans with Disabilities Act (ADA) and the North Dakota Human Rights Act. The district court concluded that Kowitz failed to show she was capable of performing the essential functions of her position, and that Trinity did not have a duty to reassign Kowitz to an alternate position. The Court of Appeals for the Eighth Circuit

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concluded that Kowitz produced evidence that she could have performed the essential functions of her position with reasonable accommodation, and reversed the district court's decision.

## From the ADA Expert

### Question:

I am an architect working on designing a new hotel. Do the doors into the rooms not required to have mobility features have to be accessible? Additionally, how many rooms are required to provide mobility features in a hotel with a total of 180 guest rooms?

### Answer:

The 2010 ADA standards for Accessible Design, 206.5.3 and 224.1.2, requires entrances, doors and doorways allowing user passage in rooms not required to provide mobility features to comply with 404.2.3. This section of chapter 4 requires a minimum 32 inch clearance at these entrances, doors and doorways. This does not apply to shower and sauna doors or doors to closets that do not allow full user passage.

Because of the social interaction that often occurs in lodging facilities, an accessible clear opening width is required for doors and doorways to and within all guest rooms, including those not required to be accessible. This applies to all doors, including bathroom doors, that allow full user passage. Other requirements for doors and doorways in Section 404 do not apply to guest rooms not required to provide mobility features.

The number of required rooms with mobility features are found in table 224.2 of the 2010 standards.

- Total Number of Guest Rooms Provided: 151 to 200
- Rooms Without Roll-in Showers: 6
- Rooms With Roll-in Showers: 2
- Total Number of Required Rooms: 8

For additional information or questions contact the Great Lakes ADA Center by calling (800) 949-4232 (V) or by visiting the Center's [online contact form](#).

### Suggested Resources:

- [2010 ADA Standards for Accessible Design](#)
- [Guidance on the 2010 ADA Standards for Accessible Design: Volume 2](#)

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- Accessible Lodging

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