

APRIL 2013

VOLUME 9 ISSUE 6

Trainings & Events
(Central Standard Time)

Accessibility Online Webinar Series

Accessible Elevators and Platform Lifts
May 2nd, 2013 1:30-3:00 CST.

Do all elevators need to comply with the technical provisions in the 2010 ADA Accessibility Standards and the Architectural Barriers Act Accessibility Standard (ABAAS)? Are platform lifts permitted in any building or facility? This session will review the scoping provisions where vertical access is required. Additional guidance on accessible elevators, residential elevators, platform lifts, along with specific criteria for "limited use, limited application" elevators also known as LULAs, will also be discussed. A presenter representing the National Elevator Industry will provide insight on the referenced standards for elevators and platform lifts.

Presenters:

Pecht, Jim - Accessibility Specialist/Librarian, US Access Board
Black, Brian - President, BDBlack & Associates

For more information visit
[ADA Audio Conference](http://www.ada-audio.org) (877) 232-1990

ADA Legal Webinar Series

The ADA in the Hospitality Setting
May 08, 2013 1:00 - 2:30 CDT

Over the years, the hospitality setting (e.g. hotels, restaurants) has been the source of significant ADA litigation and has raised some unique issues. The Department of Justice has also issued regulations impacting these settings, including pools in hotels. This session will review the range of litigation brought against hospitality providers, including employment discrimination cases brought by hospitality workers with disabilities, as well as ADA litigation brought by customers with disabilities seeking access to hospitality venues.

Speakers:

Barry Taylor - Vice President/Equip for Equality

Blind For more information visit [ADA Audio Conference](http://www.ada-audio.org) site at <http://www.ada-audio.org> or call (877) 232-1990.

News from the Federal Agencies

ADA National Network

Americans with Disabilities Act Questions and Answers booklet available online

The ADA National Network is pleased to announce the availability of a resource known as "The Americans with Disabilities Act Questions and Answers booklet". This document is designed to provide answers to some of the most often asked questions about the ADA. Produced collaboratively by the 10 regional members of the ADA National Network, the information in this booklet has been adapted from "The Americans with Disabilities Act Questions and Answers" document produced by the U.S. Equal Employment Opportunity Commission and U.S. Department of Justice, Civil Rights Division, October 2008 version. It is available on-line in HTML format with an option to download/print a PDF version.

Read more about Americans with Disabilities Act Questions and Answers booklet at =

<http://www.adata.org/>

U.S. Equal Employment Opportunity Commission (EEOC)

EEOC Sues Presbyterian Healthcare for Disability Discrimination

Presbyterian Healthcare Associates Corp. violated federal law by refusing to hire an applicant for a phlebotomist position because of an impairment to his left knee, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it has filed. According to the EEOC lawsuit, Donovus Todd has a permanent physical impairment of his left knee as a result of a knee injury.

Read more about this <http://www.eeoc.gov/eeoc/newsroom/release/3-26-13.cfm>

Outback Steakhouse to Pay \$65,000 to Settle EEOC Disability Discrimination Lawsuit

Outback Steakhouse will pay \$65,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC) the agency announced. The EEOC lawsuit charged Outback with firing server John Woods days after a new manager took over at Outback's Phoenix Metrocenter location. According to the EEOC's suit, John Woods had worked successfully under Outback's prior manager, but a new manager terminated Woods because of his disability, traumatic brain injury.

Read more about this <http://www.eeoc.gov/eeoc/newsroom/release/3-22-13.cfm>

Supervalu / Jewel Food Held in Contempt for Breaching Consent Decree

A federal judge has held Supervalu, Inc., which owns the Jewel-Osco chain of stores, in contempt for failing to comply with conditions settling the U.S. Equal Employment Opportunity Commission's (EEOC) disability discrimination lawsuit against the company. The judge faulted Supervalu for failing to send written job offers to employees on a disability leave of absence who can be returned to work, as required under a consent decree entered by the court in 2011.

Accessible Technology Webinar Series

Accessibility with WordPress

May 23, 2013 1:00-2:30 CDT.
With well over 5 million web sites using WordPress, it's obvious that the open-source CMS is a huge part of the web ecosystem. WordPress has been developed with great attention to HTML semantics and best practices, but there are still holes to fill if you want best practice web accessibility for your web site. Learn about what you can do to improve WordPress on the front-end, in the admin, and what you need to know about themes and plug-ins to keep your site accessible

Session Objectives:

WordPress, while largely accessible, is not an instant solution

A few simple functions can solve many existing problems
What to expect from plug-ins and themes

Presenters:

[Barry Johnson](#) -Senior Consultant, Deque Systems

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

ADA Audio Conference Series

Upcoming changes for federal contractors and subcontractors: Hiring and employing people with disabilities

May 28, 2013 1:00 - 2:30 CDT
Join this session to learn more about what gave rise to the changes in Section 503 and get current data on the status of people with disabilities and employment. The presenters will provide an overview of the final guidelines and discuss the ADA Amendments Act (ADA AA) and how understanding the ADA AA is critical to compliance with the new guidelines. Dilemmas regarding implementation will be discussed (i.e. collecting disability data, etc.) as well as tips on what employers need to do to including but not limited to making changes in their systems and practices. Resources to assist with compliance will be provided.

Speakers:

Judy Young - Employment and Disability Institute at Cornell University
Hannah Rudstam - Northeast ADA Center

Read more about this at <http://www.eeoc.gov/eeoc/newsroom/release/3-21-13.cfm>

EEOC Sues Toys "R" Us for Disability Discrimination

Toys "R" Us, Inc. violated federal law when it first refused to provide an interpreter for a deaf applicant and then failed to hire her, the U.S Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. The EEOC charged that Shakirra Thomas, who is deaf, applied for a team member position at the retailer's Columbia, Md., store in October 2011. Thomas communicates by using American Sign Language, reading lips and through written word. When the company contacted Thomas to attend a group interview, Thomas' mother advised that Thomas was deaf and requested the company to provide an interpreter for the interview. The retailer refused and said that if Thomas wished to attend a group interview in November 2011, then she would have to provide her own interpreter, the EEOC alleges.

Read more about this <http://www.eeoc.gov/eeoc/newsroom/release/3-19-13.cfm>

Jury Verdict for EEOC Against Western Trading Company In Disability Case

A unanimous jury in federal court in Denver found for the U.S. Equal Employment Opportunity Commission (EEOC) in its disability discrimination lawsuit against Western Trading Company, Inc., an Army-Navy surplus company in metro Denver. The jury awarded \$109,000 for Tyler Riley, an employee who was fired because of his seizure disorder.

Read more about this <http://www.eeoc.gov/eeoc/newsroom/release/3-11-13b.cfm>

U.S. Department of Justice (DOJ)

Justice Department Announces New Project Civic Access Agreement

The Justice Department announced an agreement with the city of Jacksonville, Florida, to improve access for people with disabilities to civic life in Jacksonville. The agreement was reached under Project Civic Access (PCA), the Justice Department's initiative to ensure that cities, towns and counties throughout the country comply with the Americans with Disabilities Act (ADA).

Read more about this http://www.ada.gov/jacksonville_pca/jacksonville_pca_sa.htm

Great Lakes In Focus

The LEAD Center announces the launch of its official website at LEADCenter.org.

The [LEAD Center national](#) website will serve as information central for the LEAD Center and a key resource for information to promote public policy, employment and economic advancement outcomes for all people across the spectrum of disability.

The Website features are given as:

- The latest [LEAD Center](#) and initiatives
- Relevant national news to our key issue areas of employment, public policy and economic

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

Great Lakes ADA Center
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 Audio Conference](http://www.ada-audio.org) site at <http://www.ada-audio.org>/or call (877) 232-1990.

AccessibilityOnline Webinar Series

Accessible Fire Alarm Systems
June 6th, 2013 1:30-3:00 CDT.

Accessible fire alarm systems are required where systems provide audible coverage under the ADA and the ABA. These systems are required to comply with NFPA (National Fire Protection Association) 72. A representative from NFPA will provide an overview of the requirements contained in NFPA 72 including specific criteria for visible alarms such as flash frequency, color, intensity, placement, and synchronization.

Presenters:

Pecht, Jim - Accessibility Specialist/Librarian, US Access Board
richardson, Lee - Senior Electrical Engineer, NFPA

For more information visit [AccessibilityOnline](http://www.ada-audio.org)

advancement for people with disabilities.

- A comprehensive, easily searchable [resource-center](#) with reports, articles, websites, publications, etc. focusing on our key issue areas;
- A [National Calendar](#) and Trainings
- Information on the LEAD Center's free [Webinars](#) and more

New resources, events, news and information will be added to the site regularly, with guest blogs and other features coming in June. The LEAD Center website offers numerous opportunities to interact with the [Staff](#) and showcases our [Partners](#) and [Subject-Matter Experts](#)

Social media and RSS feeds are integrated throughout key pages of the site, allowing visitors to share news and resources easily with colleagues, friends and family

Explore the LEAD Center website today at [LEAD Center](#)

Have feedback for us? Please email us at info@LEADCenter.org We hope you enjoy the new site as much as we've enjoyed creating it for you.

Karen McCulloh

Project Director, LEAD Center

The Docket

Prock vs. Tamura Corporation of America

Justin Prock worked for Tamura Corporation of America. In July 2008, Prock began suffering from an anxiety disorder. His physician prescribed medication and ordered Prock to take a leave of absence from work from August 20 to September 5, 2008. Prock's physician later called for extending the leave for an additional two weeks. The company granted Prock's leave request and he was scheduled to return to work on September 22.

On September 22, Prock's manager e-mailed Prock that she had expected him back to work that day and inquired whether his doctor had sought to extend his medical leave and requested the doctor fax her a note if that were the case. Thereafter, Prock phoned his manager and told her that his physician recommended an extension of his leave through October 31st. The manager responded that the company could not hold his position open until then and that he was terminated.

Prock filed suit under the California Fair Employment and Housing Act (FEHA). The employer filed for summary judgment and it was granted. Prock appealed that decision and the summary judgment decision was reversed.

The company contended that an employee who needs a leave of absence from work is not capable of performing his or her job and is therefore, by definition, not a qualified individual under the FEHA, and that a plaintiff who has received disability benefits is precluded from asserting that he or she is a qualified individual under the FEHA.

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The Court called these contentions "faulty." Under California law, the Court explained, an employee who is temporarily disabled and needs a leave of absence to recover from the disabling condition may be a qualified individual.

From the ADA Expert

Question: What is the association provision of the Americans with Disabilities Act (ADA) with regards to employment and to whom does it provide protection?

Answer:

The ADA covers private employers with 15 or more full or part-time employees and also state and local government employers. The ADA prohibits discrimination on the basis of disability in all employment practices of covered employers. A covered employer may hire, fire or promote the most qualified individual he or she chooses but that employer is prohibited from using disability in that decision making process.

The purpose of the association provision is to prohibit employers from taking adverse actions based on unfounded stereotypes and assumptions about individuals who associate with people who have disabilities. The ADA makes actions such as refusing to hire an individual who has a child with a disability based on an assumption that the applicant will be away from work excessively or be otherwise unreliable, firing an employee who works with people who are HIV-positive or have AIDS based on the assumption that the employee will contract the disease, or denying an employee health care coverage available to others because of the disability of an employee's dependent unlawful. The association provision of the ADA prohibits employment discrimination against a person, whether or not he or she has a disability, because of his or Her known relationship or association with a person with a known disability. This means that an employer is prohibited from making adverse employment decisions based on unfounded concerns about the known disability of a family member or anyone else with which the applicant or employee has a relationship or association.

The ADA does not require a family relationship for an individual to be protected by the association provision. The important factor is whether the employer is motivated by the individual's relationship or association with a person who has a disability.

Employers don't have to provide reasonable accommodations to employees who associate with individuals with disabilities. Only qualified applicants and employees with disabilities are entitled to reasonable accommodation.

For example, the ADA would not require an employer to modify its leave policy for an employee who needs time off to care for a child with a disability. However, an employer must avoid treating an employee differently than other employees because of his or her association with a person with a disability.

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

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Resources

Questions and Answers About the [Americans with Disabilities Act's Association Provision](#)

For additional information on the ADA contact the Great Lakes ADA Center by calling (800) 949-4232 (V/TTY) or by completing the Center's online contact form.

<http://www.adagreatlakes.org/WebForms/ContactUs/>

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