

# P&A TIDBITS

LEGAL NEWS & other

Disability-Related info

february 2020



## Blocking the Ballot Box: Ending Misuse of the ADA to Close Polling Places

A new report released by the National Disability Rights Network (NDRN) shows many of America's polling places remain inaccessible to people with disabilities. The report, entitled "Blocking the Ballot Box: Ending Misuse of the ADA to Close Polling Places," also examines an alarming new trend in which jurisdictions are misusing the Americans with Disabilities Act (ADA) to close polling places, a practice that NDRN vehemently opposes.



The ADA requires all polling places to be accessible to people with disabilities and the Help America Vote Act of 2002 mandates that all Americans have the right to a private and independent vote.

In the report, NDRN spoke to and visited counties with recent Department of Justice (DOJ) settlements for polling place accessibility. NDRN also observed "counties that did not have a recent DOJ intervention and had not shared ADA surveys of their polling places or any collaboration with the disability community, seemed more likely to attempt closing polling places."

### Blocking the Ballot Box

Ending Misuse of the ADA to Close Polling Places

January 2020



To see the report, go to: [https://www.ndrn.org/wp-content/uploads/2020/01/NDRN\\_Blocking\\_the\\_Ballot\\_Box\\_2020.pdf](https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020.pdf)



## ADA TITLE III LITIGATION: A 2019 REVIEW AND HOT TRENDS FOR 2020

According to well-known law firm, Seyfarth Shaw LLP, which has a significant disability law practice, ADA Title III lawsuits flooded federal courts in 2019 and will likely continue to do so in 2020 with new theories for the courts to consider.

Seyfarth Shaw reports that it is still tallying up the end-of-year numbers, but the number of ADA Title III lawsuits filed in federal courts by the end of November 2019 (10,206) exceeded the number of such lawsuits filed in all of 2018 (10,163). California courts continue to be the busiest with roughly 43% of the lawsuits, with New York and Florida courts taking second and third place with 24% and 18% of the market share, respectively. With plaintiffs and their lawyers constantly conjuring up new claims, businesses are not likely to see any relief from these types of suits in 2020.

Seyfarth Shaw reported that the types of lawsuits trending now include:

- Braille Gift Card Lawsuits
- Website and Mobile App Accessibility Lawsuits
- Hotel Accessibility Information on Reservations Websites
- Accessible Hotel Room Dispersion
- Inaccessible Facilities

To read more, go to: <https://www.adatitleiii.com/2020/01/ada-title-iii-litigation-a-2019-review-and-hot-trends-for-2020/>



## Accessibility News

### “ADA Title III Compliance for Restaurant Websites and Apps”

**Title III of the Americans with Disabilities Act (ADA) prohibits places of public accommodation from discriminating against individuals with disabilities. By now, most restaurants have become familiar with Title III compliance when it comes to modifying facilities and procedures – enabling disabled patrons to have equal access to goods and services. Restaurants, however, may not have considered whether their websites are equally accessible under ADA Title III.**

Restaurants seeking to become ADA compliant may be understandably confused about their obligations. Currently, the Department of Justice (which is responsible for issuing ADA standards) has not adopted standards for website and app accessibility. In the interim, restaurants should consider assessing websites and apps against the Web Content Accessibility Guidelines (WCAG) AA standards. The WCAG standards are widely accepted as providing for equal access and have been adopted by multiple countries, companies and U.S. state and local governments. The WCAG 2.0 standards are frequently cited in ADA Title III complaints. In June 2018, however, the new WCAG 2.1 standards were released. There are three “levels” of compliance with the WCAG standards: A, AA and AAA, with AAA being the highest form of accessibility. The AA level is generally considered the appropriate level for most organizations and addresses the major barriers encountered by individuals with disabilities who use Internet sites. While there is no federal law requirement adopting the WCAG standards, they are frequently used by plaintiffs’ expert witnesses to argue Title III noncompliance and have even been court-ordered as a form of relief.

Another option some restaurants may consider is to avoid operating a proprietary app for ordering and using third-party mobile delivery services (Postmates, UberEats, Waitr, etc.) instead. However, this is likely not a comprehensive solution to the Title III problem. For example, hotels have been sued for ADA compliance issues even when booking occurred through third-party sites like Expedia. Further, even if a restaurant’s ordering goes through a third-party app, the restaurant’s main website could still be vulnerable to Title III suits. Accordingly, restaurants should consider that websites and apps can lead to Title III claims and assess options for accessibility.

Source: <https://www.modernrestaurantmanagement.com/ada-title-iii-compliance-for-restaurant-websites-and-apps/>

### Celebrate the ADA!

Throughout the year, celebrate 30 years of progress in access & inclusion!

Americans with Disabilities Act (ADA) Anniversary (July 26).

### February Themes

Voting Access (click on link below with CTRL button)

[ADA Live! Podcasts & Resources - Voting](#)

[Voting - Search Resources from ADA National Network](#)

[Voting - Search ADA Document Portal](#)

[Polling Places - Search ADA Document Portal](#)

State and Local Government Access

[State and Local Government - ADA Fact Sheets & Publications from the ADA National Network](#)

[State and Local Government \(ADA Title II\) - Fact Sheets & Publications from the ADA National Network](#)

[ADA Live! Podcasts & Resources - State & Local Government \(ADA Title II\)](#)

Find more: [Monthly Themes](#) and [Ideas to Celebrate ADA](#)

FOR MORE INFO, go to: <https://www.adaanniversary.org/>



Americans with Disabilities Act

### U.S. DEPARTMENT OF LABOR LAUNCHES YEARLONG CELEBRATION OF AMERICANS WITH DISABILITIES ACT’S 30TH ANNIVERSARY

The U.S. Department of Labor’s Office of Disability Employment Policy (ODEP) today announced plans for a yearlong celebration of the Americans with Disabilities Act (ADA). Centered around the theme of “Increasing Access and Opportunity,” commemoration activities will include events, speeches and new compliance assistance resources. The ADA’s anniversary will serve as a key component of the National Disability Employment Awareness Month (NDEAM) observance in October.

“The ADA ushered in a new era of opportunity for Americans with disabilities,” said Office of Disability Employment Policy Deputy Assistant Secretary Jennifer Sheehy. “Instead of being excluded from opportunities to contribute their skills and talents, Americans with disabilities gained access to places and public services, such as employment and training programs, that were not possible before the ADA. ODEP will continue to work alongside our stakeholders as we pursue the goal of full inclusion in America’s workplaces.”

To learn more about the department’s ADA celebration, visit [dol.gov/odep/topics/ADA.htm](https://dol.gov/odep/topics/ADA.htm). To learn more about its disability-related policy work, visit [dol.gov/odep](https://dol.gov/odep).

FOR MORE  
**INFO**

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