

December - January 2014

VOLUME 10 ISSUE 3

Trainings & Events

(Central Standard Time)

News from the Federal Agencies

Accessibility Online Webinar Series

Accessible Alterations

January 9th, 2014 1:30-3:00 CST

Provisions in both the 2010 ADA Standard and the ABA Accessibility Standard apply to buildings and facilities when an "alteration" is undertaken. The session will provide an overview for applying the technical and scoping provisions when altering and more specifically address "alterations affecting primary function areas" and other special scoping and technical provisions applicable when altering.

Presenters

Jim Pecht - Disability Rights Section, U.S. Department of Justice
Dave Yanchulis - Coordinator of Public Affairs, Office of Technical and Information Services, US Access Board

For more information visit [AccessibilityOnline](#)

ADA Legal Webinar Series

THE TOP ADA CASES OF 2013

JANUARY 15, 2014 1-2:30 CT.

A number of significant ADA cases were decided in 2013, and this session will provide an in-depth review of the top ADA cases from the past year. In addition to reviewing the specific facts and ruling in each case, there will also be a discussion of the impact these cases may have on future ADA litigation. This webinar promises to cover a wide variety of ADA issues under Titles I, II and III. Start the New Year off right with a better understanding of the most important ADA cases decided in 2013.

Speakers:

Barry Taylor - Vice President of Civil Rights and Systemic Litigation

Rachel M. Weisberg - Staff Attorney, Equip For Equality

For more information visit [ADA Audio Conference site](#)

ADA Audio Conference Series

Part I: Getting Started

January 21, 2014 1-2:30 CT.

This session, the first in a three-part series, lays the groundwork for any effort to develop or update a self-evaluation and/or transition plan or, for title III entities, a barrier removal plan. Some state and local governments, colleges and universities, or private entities may have plans that date from the early 1990s. But the ADA rules have changed, you've expanded or discontinued programs, you deliver services and information in new ways such as via the web, and you've built and altered buildings and changed their use. Find out what program areas the Department of Justice's 2010 rules may require title II entities to examine, what "program access" means, the benefits of planning, alternatives to a full-blown plan, and how to position your entity for success when developing a new plan or updating an existing one. We'll explore how to prepare for the outcome you seek - from putting a team together to deciding whether to use checklists, consultants, and electronic data bases. What measures should you use for equipment, streets and sidewalks, trails, and other areas that

U.S. Equal Employment Opportunity Commission (EEOC)

Henderson Nursing / Rehab Center to Pay \$50,000 to Settle EEOC Disability Discrimination Suit

Britthaven, Inc. and its successor, Principle Long Term Care, Inc., operators of a nursing and rehabilitation center, will pay \$50,000 and furnish other relief to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC had charged that the companies violated federal law by discriminating against an employee who was diagnosed with breast cancer.

<Read More at=<http://www.eeoc.gov/eeoc/newsroom/release/1-8-14a.cfm>>

Step Three to Pay \$60,000 to Settle EEOC Discrimination Suit

Step Three, Ltd., a Hawaiian resort retailer, will pay \$60,000 for discriminating against an employee because of her fertility treatments and eventual pregnancy, the U.S. Equal Employment Opportunity Commission (EEOC) announced. The settlement includes widespread changes to company policy and procedures. According to the EEOC lawsuit, a female retail buyer in Honolulu informed the company that she began treatments for infertility in 2011. Upon disclosure of her disability, a company official allegedly made offensive comments about her intentions and became even less receptive upon disclosure of her pregnancy.

<Read More at=<http://www.eeoc.gov/eeoc/newsroom/release/12-11-13a.cfm>>

Alorica Pays \$135,000 to Settle EEOC Disability Discrimination Suit

Alorica Inc., a telesales and data services company that acquired Ryla Teleservices, Inc., will pay \$135,000 to settle a disability discrimination lawsuit brought by the Equal Employment Opportunity Commission (EEOC) against Ryla, the agency announced. According to the EEOC lawsuit, Ryla Teleservices violated federal law by firing a customer service representative diagnosed with bipolar disorder and depression, from its Kennesaw, Ga., facility rather than accommodate the employee's disability.

<Read More at=<http://www.eeoc.gov/eeoc/newsroom/release/12-11-13.cfm>>

Providence Hospital Sued by EEOC for Disability Discrimination

Providence Hospital unlawfully refused to accommodate a disabled employee and subsequently discharged her because of her disability, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. According to the EEOC lawsuit the hospital refused to allow an employee to return to work using cane following a disability leave.

<Read More at=<http://www.eeoc.gov/eeoc/newsroom/release/12-9-13a.cfm>>

may lack binding standards? A former DOJ official who has conducted evaluations for cities, counties, and universities takes you through the steps and answers questions.

Presenters

[Irene Bowen](#) - President ADA One, LLC, Silver Spring, MD
[James Terry](#)- A.I.A., LEED-AP, CASp, NCARB Chief Executive Officer, Evan Terry Associates, Birmingham, AL

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

AccessibilityOnline Webinar Series

Accessible Routes on Sites

February 6th, 2014 1:30-3:00 CST.

Exterior accessible routes are critical for individuals with disabilities using mobility devices in connecting from site arrival points to accessible building entrances. Specific scoping provisions also address connecting accessible elements and spaces "within a site". This session will review the application of these requirements using examples of newly constructed site and an existing site undertaking alterations.

Presenters:

[Peggy H. Greenwell](#) - Accessibility Specialist, Office of Technical and Information Services, US Access Board

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

For more information visit [AccessibilityOnline](#)

ADA Audio Conference Series

Part II: A Hands-on Approach to Self-Evaluations

February 18, 2014 1-2:30 CT

Next, how do you evaluate your programs, policies, and procedures? Once you've decided the scope of the evaluation and identified your resources, you'll need an organized and productive way to gather information, consider public input, and analyze the results. Possible considerations include showing support from the top; training; finding a way to bring together (1) knowledge of particular programs with (2) an understanding of the ADA -- and what to do if no one has that understanding; evaluating some programs in greater depth when they do not lend themselves to evaluation by checklist; quality control; and timing. We'll see what kind of information you should gather about facilities and at what level of detail, for assessing "program access."

Presenters:

[Irene Bowen](#) - President ADA One, LLC, Silver Spring, MD
[James Terry](#)- A.I.A., LEED-AP, CASp, NCARB Chief Executive Officer, Evan Terry Associates, Birmingham, AL

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Direct Optical Sued by EEOC for Disability Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) filed suit against Direct Optical, Inc., a Michigan eyewear retailer, for discriminating against an optician because of her disabilities. In its suit, the EEOC charged that Direct Optical discriminated against the employee because of her disabilities. when it denied her request to use her service dog at work

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/12-4-13a.cfm>>

Foodworks Will Pay \$25,000 to Settle EEOC Discrimination Lawsuit

The Food Farmacy, Ltd. and J&T Enterprises, LLC, doing business as Foodworks, a chain of grocery stores in Connecticut, will pay \$25,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S Equal Employment Opportunity Commission (EEOC), the agency announced. According to the EEOC lawsuit, Foodworks asked disability-related questions of a class of applicants before offering them jobs.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/12-4-13.cfm>>

U.S. Department of Justice (DOJ)

Department Issues New Documents on Mediation Program

The Department of Justice has issued two new publications explaining its ADA Mediation Program. Through its Program, the Department of Justice resolves many ADA complaints quickly and effectively at no cost to the parties. The documents are titled:

Resolving ADA Complaints Through Mediation: An Overview

ADA Mediation Program: Questions and Answers

<Read More at= <http://www.ada.gov/mediate.htm>>

Justice Department Reaches Settlement Agreement with Newseum

The Justice Department reached a settlement agreement with the Experimental Aircraft Association, Inc. The agreement resolves a complaint filed under title III with the Justice Department alleging that at its annual air show in Oskosh, WI a participant was prohibited from using a Segway® device. As part of the settlement agreement the Association will develop policies that outline where and when other-power driven mobility devices can be used at the air show in the future.

<Read More at= <http://www.ada.gov/eaa-airventure-sa.htm>>

Justice Department Reaches Agreement with Oklahoma Child Care Center

The Justice Department announced that it has reached a settlement with Camelot Child Development Center of Oklahoma City and Edmond, Okla., under the Americans with Disabilities Act (ADA). The settlement resolves allegations that Camelot violated the ADA by prohibiting a child with Down syndrome from field trips, and threatening to expel her, because of her

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)
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Chicago, Illinois 60608-6904

Accessible Technology Webinar Series

How to Design and Deliver an Accessible Webinar

February 19, 2014 1-2:30 CST.

Access to individuals with disabilities, including those who are deaf or hard of hearing and people who are blind or have low vision must be provided. This applies whether you are participating in a webinar or presenting one. The Great Lakes ADA Center has worked together in providing a monthly webinar series and has developed some technical assistance to assist others in ensuring accessibility. This session will examine the use of interactive features, captioning, audio connections, and other features as it relates to those who are planning to provide webinars as well as those who are developing webinar platforms.

Speakers:

[Robin Jones](#) - Director of the Great Lakes ADA Center

For more information visit [ADA Audio Conference site](#)

AccessibilityOnline Webinar Series

Open Questions and Answers

March 6th, 2014 1-2:30

Back by popular demand! Accessibility specialists and information technology specialists from the Access Board are available to answer your burning questions during this session. Session participants are requested to submit questions in advance on the 2010 ADA Accessibility Standard, the Architectural Barriers Act Accessibility Standard, Section 508, Medical Diagnostic Equipment or other Board rulemakings or activities. Accessibility specialists will answer questions submitted in advance during the first half of the session, leaving time in the second half to answer questions in the live session.

Presenters:

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

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

[Melissa Andersen](#) - Transportation Specialist, US Access Board

[Tim Creagan](#) - Senior Accessibility Specialist and Technical Assistance Coordinator, US Access Board

For more information visit [AccessibilityOnline](#)

ADA Audio Conference Series

Part III: Bringing It All Together: Transition Plans, Barrier Removal Plans, and Action Plans

March 18, 2014 1-2:30 CT.

After gathering and analyzing information and identifying problems, it's time to put it all together and put it to work. The next step is to create an action plan for changes to policies, practices, and procedures; a barrier removal plan; and/or a transition plan for making physical changes to facilities in order to achieve program access. Learn about the Department of Justice's specific requirements for transition plans and what it suggests

developmental delays.

<Read More at= <http://www.ada.gov/camelot-sa.htm>>

Justice Department Reaches Settlement Agreement with Starwood Hotels & Phoenician Golf & Resort

This agreement resolves a complaint filed under title III of the Americans with Disabilities Act (ADA) with the Department of Justice. The complaint alleged the the hotel contained accessible rooms with bathrooms that didn't meet the ADA accessibility requirements. In addition to altering the bathrooms in the guest rooms, bathrooms serving the hotel restaurant, conference area and golf course clubhouse will be altered in order to comply with the 2010 ADA standards.

<Read More at= <http://www.ada.gov/phoenician-sa.htm>>

Great Lakes In Focus

2014 National ADA Symposium Registration is NOW OPEN!

From The ADA National Network!

Registration is NOW Open!!

Don't miss the premiere event for 2014! Registration is now available for the 2014 National ADA Symposium.

Check out the Symposium website= www.adasymposium.org and browse all the options available for this year's event.

With multiple pre-conference options and over 70 breakout session options, we're sure you'll find plenty to love about this year's Symposium!

But, register early to ensure you get the selections you want, and to save \$100 off of your registration fee. Group discounts are also available.

For additional information and questions call the Great Lakes Center at (800) 949-4232.

The Docket

< Hancock v. Wash. Hosp. Ctr.,=

[http://www2.bloomberglaw.com/public/desktop/document/HANCOCK v WASHINGTON HOSPITAL CENTER Docket No 110cv00487_DDC_Mar](http://www2.bloomberglaw.com/public/desktop/document/HANCOCK_v_WASHINGTON_HOSPITAL_CENTER_Docket_No_110cv00487_DDC_Mar)

>

The Appeals Court for the Washington D.C. Circuit denied the appeal of a jury verdict in favor of an employer in an Americans with Disabilities Act (ADA) case. The case involved a medical assistant at a Washington, D.C. hospital where one of the essential job functions was to perform triage on patients. This involved preparing patients to be seen by doctors, escorting patients to exam rooms and recording patients' information on charts.

The employee developed a nerve condition that prevented the employee from lifting more than 20 pounds and triaging patients. The hospital initially allowed the employee to modify the duties of the position to periodically excuse her from

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for barrier removal plans, what the Department of Transportation looks for from its highway fund recipients, and other factors to consider. We'll examine how to enlist staff in creating actions steps for each program, identify responsibilities, establish priorities and time lines, and track steps toward remediation. An architect who has assisted with numerous transition plans and barrier removal plans also brings his practical experience to bear on these issues and on how to tie corrective actions to the planning and budgeting process.

Presenters:

[Irene Bowen](#) - President ADA One, LLC, Silver Spring, MD
[James Terry](#)- A.I.A., LEED-AP, CASp, NCARB Chief Executive Officer, Evan Terry Associates, Birmingham, AL

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Accessible Technology Webinar Series

Introduction to ARIA

March 27, 2014 1-2:30

Find out what Accessible Rich Internet Application (ARIA) is and how it is important to accessibility in web design. See demonstrations of the effect ARIA roles, particularly landmark roles, can have on the accessibility of your web pages. Learn how easy it is to add ARIA landmark roles to your code in both standard HTML pages and in WordPress themes.

Speakers:

[Virginia DeBolt](#) - Director of the Great Lakes ADA Center

ADA Legal Webinar Series

"QUALIFIED" UNDER THE ADA: THE NEW LEGAL BATTLEGROUND AFTER THE ADA AMENDMENTS ACT

MAY 21, 2014 1-2:30 CT.

Before the ADA Amendments Act (ADAAA), a significant number of ADA cases were dismissed because plaintiffs could not prove they had a disability. Five years after the ADAAA's implementation, fewer cases are being dismissed based on the definition of disability. As a result, the litigation landscape is shifting and the new legal battleground is whether plaintiffs are "qualified." This session will first review how qualified is defined in the ADA and interpreted by the Equal Employment Opportunity Commission, and then focus on how qualified is being treated in the courts. Be sure to join us for this session so that you're on top of this critical legal issue.

Speakers:

[Barry Taylor](#)- Vice President of Civil Rights and Systemic Litigation

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

performing triage. However, the hospital eventually required the employee to return to full duty. When the employee was unable to perform triage work the hospital terminated the employee.

The employee filed an ADA lawsuit arguing that the job could be performed if the employee was not required to perform triage work. The lawsuit also argued that the hospital failed to reasonably accommodate the employee's disability.

A jury sided with the hospital, finding that the employee was not a qualified individual with a disability under the ADA because the employee could not perform the essential functions of the job with or without a reasonable accommodation.

The appeals court agreed and upheld the jury verdict. The court said that, contrary to the employee's argument, "the mere fact that an employer voluntarily accommodates an employee's disability by temporarily eliminating an essential function does not mean that the employer has irrevocably waived the essential function of the job."

The court added that, "an employee who cannot perform an essential function is not a qualified individual under the ADA, even if the employer previously chose to accommodate the employee by excusing the employee from performing the essential function."

From the ADA Expert

Q. What responsibilities do stores and other businesses have in clearing snow from parking spaces, sidewalks and other areas? It is that time of year when the snow is falling and I want to know what the ADA says about snow removal.

A. The Americans with Disabilities Act requires businesses as well as state and local governments to maintain the accessible features of their buildings and facilities. Maintaining accessible features includes removing snow from accessible parking spaces and access aisles, sidewalks that are part of an accessible route to entrances and that includes any curb ramps located along the accessible route. Additionally, snow should be removed from around accessible entrances and if a power door is provided removing snow from around the door activating panel.

Businesses and government agencies are not expected to have snow removed immediately after it has fallen but should take steps to remove snow as soon as possible.

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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