



CHALLENGES OF THE AMERICANS DISABILITIES ACT: *Consumerism*

Part 2 of a 5 Part ADA Series
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The Americans with Disabilities Act (ADA) stands as a cornerstone of civil rights legislation, ensuring equal opportunities and access for individuals with disabilities in various aspects of life, including consumerism. This article explores the consumer rights guaranteed by the ADA, cases of ADA violations, strategies for consumer protection, and what to expect in mediation when ADA rights are infringed upon.

Under the Americans with Disabilities Act, individuals with disabilities are entitled to equal access to goods, services, facilities, accommodations, and privileges offered by businesses and public entities. The ADA defines a disability as a physical or mental impairment that substantially limits one or more major life activities. Major life activities include things like walking, seeing, hearing, speaking, breathing, learning, working, bodily functions, and caring for oneself. The ADA also protects individuals who have a record of such an impairment, or who are regarded as having such an impairment.



It's important to note that the ADA is a civil rights law, and its protections extend beyond physical disabilities to include mental health conditions, intellectual disabilities, and other impairments, like Crohn's disease, ulcerative colitis, and lactose issues.

Businesses are required to ensure their facilities, products, and services are accessible to individuals with disabilities, including wheelchair ramps, accessible entrances, and accommodations for visual or hearing impairments. Companies are obligated to provide Reasonable Accommodations for individuals with a disability by making reasonable modifications to policies, practices, or procedures to accommodate individuals with disabilities unless doing so would impose undue hardship.

Protecting Your Consumer ADA Rights



1. Know Your Rights

Familiarize yourself with the ADA and its provisions regarding consumer access and non-discrimination.

2. Document Incidents

Keep records of any instances where you encounter ADA violations, including dates, locations, and details of the incident. Record of the event can include video recording, police report, and email to the corporation that reiterate the event in great detail.

3. Communicate Concerns

Inform the business manager or someone of authority regarding any accessibility barriers you encounter and request reasonable accommodation when necessary.

4. Seek Legal Advice

If your ADA rights are violated and informal resolution attempts fail, consider consulting with a lawyer specializing in disability rights.

Despite legal protections, violations of consumer ADA rights still occur. Many businesses faced lawsuits for operating websites that were inaccessible to individuals with disabilities, such as lacking screen reader compatibility or alternative text for images. In situations where there's a lack of physical accessibility businesses failing to provide wheelchair ramps, accessible restrooms, or adequate signage for individuals with disabilities have resulted in legal action. In recent years the popularity of service animals has resulted in 26% of the American population having certified service dogs. 89% of the 26% of service animal owners have reported experiencing service animal Denials[i]. Businesses refusing entry to individuals with service animals are violating their right to accommodation under the ADA, have been subject to litigation.

Several infamous cases have brought attention to violations of consumer ADA rights, shedding light on the ongoing challenges faced by individuals with disabilities in accessing goods and services. Here are a few notable examples:

Target Corporation Settlement (2008):

In 2006, the National Federation of the Blind (NFB) filed a class-action lawsuit against Target Corporation, alleging that its website was inaccessible to individuals with visual impairments. The lawsuit highlighted the lack of alternative text for images and other barriers that prevented screen reader software from properly interpreting the website's content. In 2008, Target settled the lawsuit for \$6 million and agreed to improve website accessibility.

Walt Disney Parks and Resorts (2013):

In 2013, Disney faced multiple lawsuits alleging violations of the ADA at its theme parks and resorts. The lawsuits claimed that Disney's policies and practices discriminated against individuals with disabilities by imposing long wait times for attractions and limiting access to accommodations such as priority access passes. As a result of the litigation, Disney updated its policies and procedures to provide better accommodations for guests with disabilities.

H&M Clothing Store Lawsuit (2017):

In 2017, clothing retailer H&M faced a lawsuit alleging ADA violations at its stores in New York City. The lawsuit claimed that H&M's stores were not fully accessible to individuals with mobility impairments, citing barriers such as narrow aisles, high clothing racks, and inaccessible fitting rooms. H&M agreed to settle the lawsuit and make accessibility improvements to its stores.

Case Study Dunkin' Donuts



A \$5 million class-action lawsuit has been filed against Dunkin' Donuts, alleging discrimination against individuals with lactose intolerance or milk allergies. The lawsuit challenges Dunkin' Donuts' practice of charging customers up to \$2.15 extra for non-dairy milk alternatives in their beverages.

The lawsuit represents a class of individuals with lactose intolerance who have been affected by Dunkin' Donuts' pricing policy for non-dairy milk options. It argues that this pricing policy imposes a financial burden on customers seeking to avoid dairy-based products due to medical

reasons. While unjustly enriching profits by penalizing individuals with a lactose disability by charging extra for non-dairy milk alternatives without providing any additional value or benefit to customers.

The plaintiffs seek \$5 million in damages on behalf of the affected class members to compensate for the extra charges incurred for non-dairy milk options. In addition to monetary compensation, the lawsuit may seek injunctive relief to compel Dunkin' Donuts to change its pricing policy for non-dairy milk alternatives to ensure compliance with anti-discrimination laws. Dunkin' Donuts may be required to revise its pricing policies to provide equal access and pricing parity for all beverage customization options, regardless of dietary restrictions or allergies.

The class-action lawsuit against Dunkin' Donuts highlights concerns regarding discrimination against individuals with lactose intolerance or milk allergies through differential pricing for non-dairy milk alternatives. As the case progresses, it will be important to monitor developments and potential outcomes, including any settlements reached or legal rulings made regarding Dunkin' Donuts' pricing practices.[1]

These cases illustrate the importance of enforcing ADA requirements to ensure equal access and nondiscrimination for individuals with disabilities in various sectors, including retail, entertainment, and transportation. While progress has been made in addressing accessibility barriers, continued advocacy and enforcement efforts are necessary to promote full inclusion and accessibility for all.



Mediation for ADA Violations

Mediation can offer a constructive means of resolving ADA disputes between consumers and businesses. A trained mediator will facilitate discussions between the parties involved, encouraging open communication and collaboration. The mediator will help clarify the ADA violations alleged by the consumer and explore potential solutions to address them. Both parties will have the opportunity to negotiate and propose resolutions that meet the needs and concerns of all involved. If a mutually acceptable agreement is reached, it will be documented in writing, outlining the actions each party agrees to take to address the ADA violations. The mediated agreement may include provisions for monitoring and enforcement to ensure compliance with ADA requirements.

Consumer ADA rights are fundamental to ensuring equal access and opportunity for individuals with disabilities in the marketplace. By understanding their rights, documenting violations, and seeking recourse through mediation, when necessary, consumers can help hold businesses accountable and promote greater accessibility and inclusivity for everyone affected.



**For more information about Civil Mediation please visit
www.MyMediator.JeannieSantiago.com**

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[1] [Most Remarkable Service Dog Statistics In 2024 \(pawsonadvice.com\)](https://pawsonadvice.com)

[1] [Dunkin Non-Dairy Milks Lawsuit | ADA Discrimination | ClassAction.org](https://Dunkin-Non-Dairy-Milks-Lawsuit-ADA-Discrimination-ClassAction.org)