

CREDIT UNION JOURNAL

Think Your ATMs Are ADA A-OK? Think Again

Dec 09, 2016



“...one law firm will just file 200 lawsuits against banks in Arizona for failing to comply with the ADA communication features.”

by *Graham Curran, FTSI*

Every year, numerous financial institutions are hit with Americans with Disabilities Act (ADA) lawsuits which can cost \$55K just for the first violation. Even if a financial institution does everything right they can still have a lawsuit filed against them — especially if a scam artist damages their ATM so as to prevent it from meeting compliance standards. With so much at stake, financial institutions need professional help.

Chris Palamountain of Seyfarth Shaw LLP, an attorney with experience in ADA compliance, recently shared her roadmap for avoiding ADA violations and defending against fraudulent ones. She said the first step is to assess current ADA violation risk. This means checking physical and digital assets against everything required in either the 1991 Standards or 2010 ADA Accessibility Standards (depending on whether your current building is grandfathered in). Just a few of the items to check include making sure:

- ATMs meet the 15- to 48-inch reach requirements
- Parking spaces are wide enough
- Entrance ramps have the correct slope
- Websites have disability access

Financial institutions are incredibly vulnerable to ADA fines so Palamountain recommends the next move is to determine what issues, geographic regions, or types of ATMs present the greatest liability risk. "If you have ATMs in California or Florida, which are heavy litigation states, you can decide that maybe that's the place where you want to extend resources to bring your ATMs up to ADA compliance," says Palamountain. Once you have mitigated your violation risks, the final step is to protect yourself from fraudulent claims. As is too often the case in law, it's not what you know, but what you can prove. So if some scammer damages your ADA stickers and then files a complaint, they can collect costly attorney fees. "You will see a wave of lawsuits," says Palamountain. "For example, one law firm will just file 200 lawsuits against banks in Arizona for failing to comply with the ADA communication features."

To combat this, Palamountain advises that you defend yourself with regular documented inspections. "In the event that you are sued, you can always produce those inspection reports and say 'Our records show that between this date and this date, the ATM feature was working so we don't believe your complaint allegations are correct.'" Additionally, security footage is a huge deterrent for fraudulent lawsuits. "After learning of such footage, a number of Plaintiffs have dismissed or decided not to pursue claims," says Palamountain.

Graham Curran is a writer and researcher focusing on financial branch products and services at FTSI, Inc. For more information please visit www.ftsius.com.