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Seidman Business Review

Volume 13 | Issue 1 Article 7

1-1-2007

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Recommended Citation

Crampton, Suzanne M.; Hodge, John W.; and Adisu, Kinfu (2007) "Accommodating Disabilities in Grand Rapids," *Seidman Business Review*: Vol. 13: Iss. 1, Article 7.
Available at: http://scholarworks.gvsu.edu/sbr/vol13/iss1/7

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Accommodating Disabilities in Grand Rapids

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The Americans with Disabilities Act (ADA) was designed to guarantee equal opportunity in employment, public accommodation, transportation, state and local government services and telecommunications for individuals with physical or mental disabilities. The law applies to both public and private employers. An individual with a disability is defined as an individual who has a physical or mental impairment that substantially limits one or more major life activities. In order to comply with the ADA, organizations are required to make reasonable accommodations unless making the accommodation results in an undue hardship.

The ADA and the Grand Rapids Area

Problems associated with the ADA have been a popular topic in the *Grand Rapids Press* since September 2006. Between September 14 and October 28 six articles appeared in the *Grand Rapids Press* that discussed problems associated with ADA compliance. In a nutshell, the articles were as follow:

September 14, 2006: "Getting Around Isn't Easy," the headline in the *Grand Rapids Press* stated as it discussed violations reported in an audit concerning accessibility in downtown Grand Rapids for handicapped individuals. The article stated that violations are so numerous that it would take years to rectify them.

September 18, 2006: "He Wants a Wheelchair Ramp, But His Condo Board Says No," stated the headline in an article discussing the problems a veteran was having in his request to install a wheelchair ramp at his Wyoming condominium.

September 23, 2006: "Veteran Gets His Ramp," stated the headline in the article discussing the decision by the veteran's condominium association giving the veteran permission to install his ramp, with the association president saying the whole thing was a huge misunderstanding.

September 23, 2006: "Missing the Mark," summarized the editorial by the *Grand Rapids Press* discussing the difficulties and cost of correcting the problems revealed in the September 4, 2006, *Grand Rapids Press* article. The *Press* concluded that it would be in everyone's interest in the long run to do a better job accommodating handicapped individuals. These accommodation problems exist throughout the greater Grand Rapids area. Part of the accommodation problem results from shoddy engineering, inconsistent standards, and misunderstandings about what constitutes compliance with the ADA.

October 12, 2006: "Vet Gets His Wheelchair Ramp," discussed the successful installation of the wheelchair ramp for the veteran at his condominium.

October 28, 2006: "Disabled Woman Gets New Bike," discussed a lady who had her bike stolen and received a new bike. The new bike resulted from contributions provided by readers of a story that had previously appeared in the *Press* concerning the theft of her bike.

These articles in the *Grand Rapids Press* suggest that compliance with the ADA is not easy. These accommodation problems are no surprise to us. In 1993, two of the current authors published an article entitled "The ADA: Easier Said Than Done" (Crampton & Hodge, 1993). We theorized in that article that although the goals of the ADA are worthy, progress and success in the area of accommodation would be

difficult. For instance, a report issued by SHRM (Society for Human Resource Management) in February 2001 examined ADA lawsuits and the areas under which they had been filed. Discharge accounted for 50 percent of all complaints; reasonable accommodation, 23 percent; hiring, 13 percent; and harassment, 9 percent (Bell, 1994). Employers prevailed in 91.6 percent of the cases filed between 1992 and 1997 (Bureau of National Affairs, 2000). These lawsuits and compliance problems add credence to our original premise that compliance with this law would be difficult.

The *Grand Rapids Press* is correct in stating that there are misunderstandings and inconsistencies with regard to the ADA. The legal status of the ADA, like most laws, is evolving over time as a result of lawsuits and court decisions. Since 1998 the Supreme Court has issued 13 rulings that we reviewed for this discussion concerning employer obligations and employee rights under the ADA. Space does not permit a review of all these cases. Appendix A summarizes the main conclusions from these Supreme Court cases (Crampton & Hodge, 2003).

Discussion

All Supreme Court decisions are important but three cases seem significant to our discussion of accommodation problems. In the "Toyota Motor Manufacturing" case, the court defined what is meant by a major life activity for the first time. A major life activity relates to activities required to take care of one's self, such as brushing your teeth or combing your hair. Activities related to performing a task on an assembly line are not included because the law focuses on what is required to maintain one's life, not to perform a job. In the Sutton case, the court indicated that even if the individual was considered disabled, that prognosis could be lost if his condition could be substantially controlled. In the Garrett case, of particular interest to our discussion is the barring of state employees from suing their state in federal courts for violating the ADA. Finally, the Gorman decision concluded that individuals could not sue cities for refusing to build wheelchair ramps or make other accommodations for the disabled.

Conclusions

So we end where we began—compliance with the ADA is easier said than done. It is not surprising that downtown Grand Rapids and institutions are falling short in meeting the requirements of the ADA. These accommodation requirements are a work in progress. Nothing is cast in stone; there will be more court decisions in the future. However, in order to be the all-American city that we want Grand Rapids to be, we should continue our efforts to promote accommodations for disabled individuals in the greater Grand Rapids area.

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APPENDIX A

SUMMARY OF SUPREME COURT ADA CASES

CASE	ISSUE/DECISION
Bragdon v. Abbott, 1998	An individual infected with HIV but who is asymptomatic is considered disabled under the ADA.
Sutton v. United AirLines, Inc., 1999	If the condition causing the disability can be substantially controlled, then the individual may not be considered disabled.
Murphy v. United Parcel Service, 1999	Being unable to perform a single particular job or task is insufficient to determine whether an individual is disabled. Rather, a person's impairment must substantially limit one or more major life activities.
Albertsons, Inc. v. Kirkingburg, 1999	Just because an individual has to perform a job in a different manner, does not within itself mean that he or she is disabled under the ADA. Again, the impairment must negatively affect a major life activity.
Kolstad v. American Dental Association, 1999	The Court lowered the standard plaintiffs had to reach in order to collect punitive damages. In addition, the Court indicated that if the employer had acted in good faith in its efforts to meet the ADA requirements, punitive damages could also be reduced.
Board of Trustees of the University of Alabama v. Garrett, 2001	Barred state employees from suing their state in federal court for violating Title I of the ADA.
Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources, 2001	Limited the payment of attorney fees and costs to the prevailing party in ADA cases unless mandated by law.
PGA Tour, Inc. v. Martin, 2001	Ruled that a professional athletic event was covered under the ADA and a professional golfer who is disabled should be able to ride in a golf cart while competing.
Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 2002	Individuals suffering from repetitive motion injuries are not covered under the ADA unless major life activities are also affected.
EEOC v. Waffle House, Inc., 2002	Binding arbitration agreements between the employee and the company to arbitrate disputes does not bar an employee from seeking relief through the EEOC for ADA-related claims.
US Airways, Inc. vs. Barnett, 2002	Employers do not have to adjust a bona-fide seniority system in order to accommodate a disabled employee.
Chevron U.S.A. Inc. v. Echazabal, 2002	Employers may make employment-related decisions that discriminate against a disabled employee when the job assignment will present a risk to the employee or other employees.
Barnes v. Gorman, 2002	Individuals could not seek punitive damages from cities and government boards that accept federal money if they refuse to build wheelchair ramp or to make other accommodations for the disabled.