

2023

Disabling Travel: Quantifying the Harm of Inaccessible Hotels to Disabled People

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Recommended Citation

Kristen L. Popham, Elizabeth F. Emens & Jasmine E. Harris, *Disabling Travel: Quantifying the Harm of Inaccessible Hotels to Disabled People*, 55 COLUM. HUM. RTS. L. REV. F. 1 (2023).
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DISABLING TRAVEL:
QUANTIFYING THE HARM OF
INACCESSIBLE HOTELS TO DISABLED
PEOPLE

Kristen L. Popham, Elizabeth F. Emens & Jasmine E. Harris*

TABLE OF CONTENTS

Introduction	3
I. Firsthand Accounts of Disabled Individuals Burdened by Violations of the Reservation Rule.....	13
A. Experiences of Travelers Unable to Acquire Accessibility Information About the Hotel Because the Hotel Failed to Identify and Describe Accessibility Features	16
B. Experiences of Travelers Unable to Successfully Reserve or Rent an Accessible Room	20
1. Hotels Unwilling to Guarantee an Accessible Room	21
2. Hotels Fail to Provide an Accessible Room After Guaranteeing It in Advance	24

* J.D. Candidate, 2025, Columbia Law School; Thomas M. Macioce Professor of Law, Columbia University; Professor of Law, University of Pennsylvania (respectively). This Essay would not have been possible without the perspectives shared by the individuals who recounted their stories in response to the survey at the heart of this Essay. We offer our profound thanks for their time and vulnerability and for the organizations and individuals who created and administered the survey that led to this Essay. *See infra* note 35 (explanation of survey). Additional thanks to research assistants Daniel Adewunmi, Sarika Bhattacharjee, Margaret Hassel, Sam Hainbach, Shaunak Puri, and Natasha Statz-Geary, and the editors of the *Columbia Human Rights Law Review*, for their impressive and speedy work leading up to publication.

C. Experiences of Travelers Unable to Acquire an Accessible Room in the Same Manner and During the Same Hours as Inaccessible Rooms.....	31
II. How Travel Inconvenience, Inefficiency, and Inaccessibility Affect Disabled Lives	34
III. Storytelling as a Tool for Combatting the Stigmatic and Dignitary Harm of ADA Noncompliance	48
A. Examining Acheson Hotels’ Minimizing Language	50
B. Combatting Stigma with the Voices of People with Disabilities	54
1. The “Disability Tax” and Discrimination Admin	54
2. Physical Harm and Compromised Security	57
3. Diminished Privacy and Autonomy	58
4. Isolation and Ostracism of Disabled People	59
C. Acknowledging the Risks and Rewards of Storytelling	60
Conclusion.....	62
Appendix A: Survey Questions.....	64
Appendix B: Key Survey Response Tallies	65
Appendix C: Information on Terms Used in Acheson Hotels and Amici Briefs	67

INTRODUCTION

During its 2023–2024 term, the U.S. Supreme Court will decide a case with significant implications for the future of the Americans with Disabilities Act (ADA). In *Acheson Hotels v. Laufer*, the Court will determine whether a civil rights “tester” plaintiff has Article III standing to sue a hotel for failing to provide information about the hotel’s accessibility online—in violation of Department of Justice (DOJ) regulations applying the ADA’s requirement of “reasonable modifications in policies, practices, or procedures”¹—when the plaintiff did not intend to book a hotel reservation.² Plaintiff-Respondent Deborah Laufer has not only challenged the failure of Acheson Hotels to provide required information, but has also filed over 600 similar lawsuits, showcasing system-wide violations of the ADA’s “Reservation Rule.”³

¹ 42 U.S.C. § 12182(b)(2)(A)(ii).

² *Acheson Hotels, LLC v. Laufer*, 143 S. Ct. 1053 (2023), *cert. granted*.

³ Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 75 Fed. Reg. 56236–58 (Sept. 15, 2010) (codified at 28 C.F.R. pt. 36) (hereinafter 2010 Final Reservation Rule) (describing the legislative history of the ADA’s implementing regulations, including the Reservation Rule). The Reservation Rule was released for notice and comment in 2008. *Id.* The regulation applies to reservations offered at any place of lodging: “[a] public accommodation that owns, leases (or leases to), or operates a place of lodging shall, with respect to reservations made by any means, including by telephone, in-person, or through a third party.” 28 C.F.R. § 36.302(e)(1) (2012). The regulation requires businesses to make accessibility information available: “A public accommodation that owns, leases (or leases to), or operates a place of lodging shall . . . identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs.” *Id.* § 36.302(e)(1)(ii). The Rule also requires hotels to deliver accessible rooms in the same manner and during the same hours as inaccessible rooms, hold accessible rooms for individuals with disabilities, and guarantee an accessible room reservation is held for the reserving customer. *Id.* § 36.302(i), (iii), (iv). Among the motivations for the Rule’s passage are repeated complaints related to accessibility in the hotel reservation process: “Each year the Department receives many complaints concerning failed reservations. Most of these complaints involve individuals who have reserved an accessible hotel room only to discover upon arrival that the room they reserved is either not available or not

The Reservation Rule (“the Rule”), promulgated in 2010, requires hotels to make accessibility information available “through [their] reservations service[s] in enough detail to reasonably permit individuals with disabilities⁴ to assess independently whether a given

accessible.” 2010 Final Reservation Rule, *supra*, at 56273. Amy Howe, *Court Takes Up Civil Rights “Tester” Case*, SCOTUSblog (Mar. 27, 2023), <https://www.scotusblog.com/2023/03/court-takes-up-civil-rights-tester-case/> [<https://perma.cc/KP2D-H56P>] (noting the number of cases Laufer has filed); see also Jasmine E. Harris, Karen M. Tani & Shira Wakschlag, *The Disability Docket*, 72 AM. U. L. REV. 1667, 1726 (2023) (outlining the facts of the *Acheson Hotels* case). Laufer, a disabled woman with vision and mobility impairments, has numerous accessibility needs at hotels to accommodate her use of a wheelchair and cane. After reviewing the Acheson Hotels website and being unable to ascertain information about the availability of accessible rooms, Laufer sued Acheson Hotels, alleging discrimination under Title III of the ADA and the Reservation Rule. Laufer claims Acheson Hotels’ failure to include accessibility information “deprives her of the ability to make a meaningful choice” and leads her to suffer humiliation and treatment like a “second class citizen.” The district court dismissed the case on standing grounds, but the First Circuit court reversed. The First Circuit found Laufer suffered a “concrete injury in fact” and her “feelings of frustration, humiliation, and second-class citizenry are indeed downstream consequences and adverse effects of the informational injury she experienced.” *Id.* (citing *Laufer v. Acheson Hotels, LLC*, No. 2:20-CV-00344-GZS, 2021 WL 1993555, at *2 (D. Me. May 18, 2021), *rev’d and remanded*, 50 F.4th 259 (1st Cir. 2022), *cert. granted*, No. 22-429 (U.S. Mar. 27, 2023)). The Supreme Court granted review to resolve a circuit split on the question of whether ADA testers have Article III standing for injunctive relief.

⁴ This Essay oscillates between using person first language and identity first language to acknowledge current conversations regarding disability self-identification and the role of the disability in identity. People’s First/Person First language was driven primarily by the self-advocates’ movement among people with intellectual and developmental disabilities. *Writing Respectfully: Person-First and Identity-First Language*, Nat’l Insts. Health (Apr. 12, 2023), <https://www.nih.gov/about-nih/what-we-do/science-health-public-trust/perspectives/writing-respectfully-person-first-identity-first-language> [<https://perma.cc/82EV-WZLS>]. Identity First language is a more contemporary move to recognize the importance of disability in one’s identity, deemphasize distance between a person and a disability, and move from “person with autism,” for example, to “autistic person.” See, e.g., Lydia X.Z. Brown, *The Significance of Semantics: Person-First Language: Why It Matters*, AUTISTIC HOYA (Aug. 4, 2011), <https://www.autistichoya.com/2011/08/significance-of-semantics-person-first.html> [<https://perma.cc/263J-T7L6>] (noting that “many self-advocates and their allies prefer terminology such as ‘Autistic,’ ‘Autistic person,’ or ‘Autistic individual’ because we understand autism as an inherent part of an individual’s identity. . . .

hotel or guest room meets his or her accessibility needs.”⁵ The Rule also requires hotels to deliver accessible rooms in the same manner and during the same hours as inaccessible rooms,⁶ to hold accessible rooms for individuals with disabilities,⁷ and to guarantee that an accessible room reservation is held for the reserving customer.⁸ Among the motivations for the Rule’s passage were widespread complaints related to accessibility in the hotel reservation process. During the Rule’s notice and comment period, which began in 2008, industry representatives advocated for language that required hotels to treat disabled individuals in “a substantially similar manner” to nondisabled guests; the Department did not accept this suggested language, and the Rule instead requires hotels to treat disabled individuals “in the *same* manner” as nondisabled individuals.⁹ Hotels had an 18-month transition period to implement the changes.¹⁰ The American Society of Travel Agents, Inc. (at the time “the world’s largest association of professional travel agencies”) filed a comment with the DOJ in support of “parity in reservations policies” and explained that, to achieve that goal, hotels are best positioned to provide accurate accessibility information.¹¹

It is impossible to separate a person from autism” and responding to opinions for and against the use of person first language).

⁵ 28 C.F.R. § 36.302(e)(1)(i) (2010).

⁶ Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities, 28 C.F.R. pt. 36 app. A, at 804 (2010) (hereinafter Reservation Rule Guidance) (“[T]he NPRM required a public accommodation that owns, leases (or leases to), or operates a place of lodging to: Modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations . . . for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms.”).

⁷ 28 C.F.R. § 36.302(e)(1)(iii) (“Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type.”).

⁸ *Id.* § 36.302(e)(1)(v) (“Guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others.”).

⁹ Reservation Rule Guidance, *supra* note 6, at 804 (describing the history of the ADA’s implementing regulations, including the Reservation Rule) (emphasis added).

¹⁰ *Id.* at 56237.

¹¹ Paul Ruden, Am. Soc’y of Travel Agents, Comment Letter on the Proposed Rule on Nondiscrimination on the Basis of Disability by Public Accommodations and in

Hotels' noncompliance with Title III of the ADA,¹² and with the Reservation Rule in particular, is pervasive,¹³ and tester plaintiffs play a key role in enforcing the law. The ADA's enforcement scheme depends in large part on private lawsuits to compensate for the limited resources of its designated enforcement agency, the DOJ.¹⁴ The burdens of filing suit and obtaining injunctive relief, however, are significant for the individuals on whom the ADA relies,¹⁵ the very same individuals who rely on the Act for the opportunity to, as Jacobus

Commercial Facilities (Aug. 18, 2008) (“The key, therefore, to the ability of travel agents to provide detailed accessibility information to prospective purchasers of hotel room nights is that the hotels assure that this information is available through those resources. If it is not made available that way, it will, quite clearly, be impossible for agents, no matter how willing, to comply. . . .”).

¹² 42 U.S.C. § 12182(b)(2)(A)(ii).

¹³ Jennie Small, Simon Darcya, and Tanya Packer, *The Embodied Tourist Experiences of People with Vision Impairment: Management Implications*, 33 TOURISM MGMT. 941, 943 (2012) (stating that “studies have shown that significant disability discrimination exists within all sectors of the tourism industry across all dimensions of disability, embodiment and access”) (internal citations omitted). For a discussion of why the ADA requires such affirmative measures, see, for example, *Brooklyn Ctr. for Independence of the Disabled v. Bloomberg*, 980 F. Supp. 2d 588, 597 (S.D.N.Y. 2013) (noting that “the ADA . . . seek[s] to prevent . . . discrimination that results from ‘benign neglect’” and finding that New York City had failed to account for people with disabilities in emergency planning).

¹⁴ 42 U.S.C. § 12117 (designating enforcement mechanisms through the DOJ); Brief for the United States as Amicus Curiae Supporting Neither Party 16–17, *Acheson Hotels, LLC v. Laufer*, No. 22-429 (U.S. filed June 12, 2023); Jasmine E. Harris & Karen M. Tani, Opinion, *Debunking Disability Enforcement Myths*, REG. REV. (Oct. 25, 2021), <https://www.theregreview.org/2021/10/25/harris-tani-debunking-disability-enforcement-myths/> [https://perma.cc/TD5V-DL4N]; Samuel R. Bagenstos, *The Perversity of Limited Civil Rights Remedies: The Case of “Abusive” ADA Litigation*, 54 UCLA L. REV. 1, 9–10 (2006) (hereinafter Bagenstos, “*Abusive*” *ADA Litigation*).

¹⁵ The ADA relies substantially on individual enforcement in part because the DOJ does not have the resources to litigate every violation documented. Several respondents mentioned trying to seek remedies through the DOJ. One, Paula, mentioned filing several complaints, one of which proceeded to mediation and another of which resulted in a Title III settlement. But others were not so fortunate. For instance, Jackie stated, “I filed an ADA complaint with hotel and with the DOJ. I received a letter from the DOJ saying my case would be resolved by their mediation program. After I agreed to the mediation program, I never heard back from anyone about a meeting.” Other respondents, like Bella, were unable to engage in DOJ’s mediation program because the hotel would not agree to participate.

tenBroek famously put it, “live in the world.”¹⁶ Because damages are unavailable for violations of the Rule,¹⁷ suits for injunctive relief need to be filed before a problem arises: Injunctive relief is relatively useless for those who are denied accessibility information about public accommodations. Any injunction would take effect long after the disabled traveler needed the accessibility information. These obstacles undermine the affirmative duty that the Reservation Rule places on businesses to acknowledge and account for disabled individuals *before* those individuals need to book their reservations. Tester litigation helps to secure the services proposed by the Reservation Rule and to deliver on the regulation’s promise of equal efficiency, immediacy, and convenience.¹⁸

In *Acheson Hotels*, Petitioner Acheson Hotels discounts tester litigants’ harm as “manufacture[d],”¹⁹ “self-inflicted,”²⁰ and “not impending.”²¹ Presenting tester litigation as a systematic and

¹⁶ Jacobus tenBroek, *The Right to Live in the World: The Disabled in the Law of Torts*, 54 CALIF. L. REV. 841, 870 (1966) (coining the phrase “live in the world,” which importantly captures a goal of the ADA).

¹⁷ See 42 U.S.C. § 12188(a)(1) (2000) (authorizing the recovery of injunctive, not monetary, relief by plaintiffs suing under Title III).

¹⁸ See Reservation Rule Guidance, *supra* note 6, at 804. In the words of the Ninth Circuit,

Though the district court found that Langer had standing, it did so reluctantly. Today we make clear that district courts cannot use the doctrine of standing to keep meritorious ADA cases out of federal courts simply because they are brought by serial litigants. Nor can district courts use improper adverse credibility determinations to circumvent our holding in CREEC allowing tester standing for ADA plaintiffs. Courts must “take a broad view” of standing in civil rights cases, particularly in the ADA context where private enforcement is “the primary method” of securing compliance with the act’s mandate.

Langer v. Kiser, 57 F.4th 1085, 1099 (9th Cir. 2023) (citing sources). The court’s citations include the following quotation: “[A] system that relies on private attorneys general should respect and value the work done by those who take up the mantle ... rather than expecting every disabled person to use whatever spare time and energy they have to litigate each trip to the movies.” *Id.* (quoting Elizabeth F. Emens, *Disability Admin: The Invisible Costs of Being Disabled*, 105 MINN. L. REV. 2329, 2375 (2021) (hereinafter Emens, *Disability Admin*)).

¹⁹ Petition for Writ of Certiorari 43, *Acheson Hotels*, No. 22-429 (U.S. filed Nov. 4, 2022) (hereinafter *Acheson Hotels* Petition for Writ).

²⁰ *Id.* at 43, 46.

²¹ *Id.* at 43.

organized effort to usurp government authority and target small businesses, briefs filed on behalf of Acheson Hotels mischaracterize the ADA's design and demonize disabled plaintiffs' pursuit of remedies for widespread noncompliance.²²

The systemic disregard for the Reservation Rule interpreting hotel operator duties under Title III of the ADA,²³—which tester litigants spotlight—touches disabled people's everyday lives. Noncompliance causes unequal access to professional and personal travel opportunities for disabled people. Moreover, hotels that leave out critical accessibility information contribute to the stigmatic marginalization, dignitary harm, and erasure of disabled lives.²⁴ That

²² See, e.g., *id.* at 28 (“The scheme is simple: an unscrupulous law firm sends a disabled individual to as many businesses as possible, in order to have him aggressively seek out any and all violations of the ADA. Then, rather than simply informing a business of the violations, and attempting to remedy the matter through conciliation and voluntary compliance, a lawsuit is filed Faced with the specter of costly litigation and a potentially fatal judgment against them, most businesses quickly settle the matter.” (alteration in original) (internal quotation marks omitted) (quoting *Shayler v. 1310 PCH, LLC*, 2022 WL 13743415, at *2 (9th Cir. Oct. 24, 2022))).

²³ The Department of Justice interpreted the reasonable modification provision of the statute to require salient parts of the Rule long before 2010. See, e.g., DOJ, ACCESSIBLE CUSTOMER SERVICE PRACTICES FOR HOTEL AND LODGING GUESTS WITH DISABILITIES 2 (2006) (indicating that staff “need to know and be able to accurately inform potential guests about the accessible features offered in each of their facilities”); DOJ, ADA TITLE III TECHNICAL ASSISTANCE MANUAL § III-4.2100 (1993) (“The ADA requires the motel to make reasonable modifications in its reservation system to ensure the availability of [an] accessible room.”).

²⁴ Availability of accessibility information is a critical element of travel services, especially today when internet travel planning predominates. Fulfilling the Reservation Rule's mandate of ensuring people with disabilities access hotel reservation services with the same efficiency, immediacy, and convenience of nondisabled people also means providing information about whether a hotel is *inaccessible*. This information assists disabled people in ruling out certain hotels without the cost of acquiring that information via phone calls or emails, and without the risk that they will receive inaccurate information about whether a hotel is accessible. Because the Rule only requires hotels take reasonable steps, offering an online reservation service responsive to disabled travelers would take a few hours but save numerous disabled people time, expense, and vulnerability to harms related to inaccessibility. See, e.g., Denise Brodey, FAQ: The Top Questions Asked About Hotel Accessibility – Part 1, Travelability Insider (Feb. 26, 2020), <https://www.travelabilityinsider.com/?s=hotel+FAQ> [https://perma.cc/NWL8-JJ58] (hotel operator reporting that it took two hours to pull together the information on

critical information includes notice about whether the hotel is accessible at all, which is the focus of the *Acheson Hotels* case.²⁵

This Essay presents travel experiences recounted by the disabled people who lived them and frames the injuries experienced by disabled travelers. The stories elucidate the depth and scope of the stigma and dignitary harm imposed when hotels fail to comply with the mandates of the ADA, in general, and the Reservation Rule, in particular. These narratives offer an important rejoinder to the discrediting myths widely available in public circulation.²⁶ To resist widespread erasure of disabled lives and disregard for dignitary harm, we need to confront the origins and fallacies behind the stigma itself.

Opponents of the Reservation Rule and system-level ADA reform discredit the harm experienced by disabled individuals seeking accessibility information. In arguments submitted to the Supreme Court, for example, Petitioner Acheson Hotels and its supporting amici have consistently deployed arguments that minimize the challenges faced by disabled travelers. In its merits brief, for example, Acheson Hotels trivializes the task of acquiring accessibility information:

accessibility and add a “Frequently Asked Questions” section to the hotel website). In addition to these practical advantages, compliance with the Reservation Rule also acknowledges disabled people as participants in a community of travelers deserving of equal access to information regarding the suitability of a hotel reservation.

²⁵ This case turns on Acheson Hotels’ failure to provide information on its website indicating that the hotel is not accessible, which violates the Reservation Rule and causes injury. *See infra* text accompanying notes 70–71 (discussing the injury caused by the failure to post information about inaccessibility). As the Essay discusses later, the informational obligations imposed by the Reservation Rule are significant in their own right and also function in interrelated ways with the Rule’s other requirements to ensure meaningful access. *See infra* text accompanying notes 37–42 (discussing this interplay in the Introduction to Part I).

²⁶ ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* 3 (1963) (defining stigma as “an attribute that is deeply discrediting”); *cf.* Robin Lenhardt, *Understanding the Mark: Race, Stigma, and Equality in Context*, 79 N.Y.U. L. REV. 803 (2004); Doron Dorfman, *Fear of the Disability Con: Perceptions of Fraud and Special Rights Discourse*, 53 LAW & SOC’Y L. REV. 1, 17 (2019) (hereinafter Dorfman, *Disability Con*).

If Laufer had actually wanted to know whether Coast Village [Inn & Cottages] was ADA-accessible, she could have placed a two-minute phone call or sent an email.²⁷

Moreover, a polite phone call or email will frequently be more effective at persuading a bed-and-breakfast to update its website than a lawsuit that will cause it to dig in its heels.²⁸

Acheson Hotels' claim—that tester suits are frivolous solutions to problems that hardly exist (even for disabled people who intend to book rooms)—is directly at odds with the lived experiences of disabled people as well as with the spirit of the ADA. People with disabilities, even after devoting far more time to researching the accessibility of public accommodations than nondisabled individuals do in the ordinary course, are often not accommodated by the very property owners and operators who committed by phone or email to do so. The ADA's fundamental intent when it comes to travel is to narrow the disparity between the efficiency, convenience, and safety of travel experiences of disabled and nondisabled people.²⁹ To belittle tester litigation is to ignore the reality faced by disabled travelers.

This Essay interrogates the validity of claims like those made by Acheson Hotels and its supporting amici by examining challenges faced by people with disabilities attempting to book and engage in accessible travel. In this respect, the Essay speaks to and goes beyond the issues in the case currently before the Court.³⁰ The Essay fills a gap in the legal literature by conveying the scope of the discrimination experienced firsthand by disabled people and thereby demonstrating an important, underappreciated subset of the harms of inaccessibility.

²⁷ Brief of Petitioner at 6, *Acheson Hotels, LLC v. Laufer*, No. 22-429 (U.S. filed June 5, 2023).

²⁸ *Id.* at 50.

²⁹ See Reservation Rule Guidance, *supra* note 6, at 804 (“[B]asic nondiscrimination principles mandate that individuals with disabilities should be able to reserve hotel rooms with the same efficiency, immediacy, and convenience as those who do not need accessible guest rooms.”).

³⁰ See Harris, Tani & Wakschlag, *supra* note 3 (describing the facts underlying *Acheson Hotels*); see also Howe, *supra* note 3 (discussing the case's procedural history).

Disabled individuals must confront “onslaughts of admin”³¹ across many dimensions of life. The labor associated with disabled life in a largely inaccessible world affects the way people with disabilities engage with their personal and professional environments.³² While the scope and contours of this labor can vary depending on an individual’s disability and circumstances, disability admin frequently involves obtaining adequate medical care, accessing disability benefits, and combatting discrimination.³³

³¹ Emens, *Disability Admin*, *supra* note 18, at 2341 (defining “life admin” as the office-type work required to run households and lives and presenting the particular admin burdens faced by disabled individuals).

³² See, e.g., Catherine Bigonnesse, Atiya Mahmood, Habib Chaudhury, W. Ben Mortenson, William C. Miller, & Kathleen A. Martin Ginis, *The Role of Neighborhood Physical Environment on Mobility and Social Participation Among People Using Mobility Assistive Technology*, 33 *DISABILITY & SOC’Y* 866, 881 (2018) (reporting that, “[n]ot surprisingly, weather, sidewalk and pavement conditions, poor curb cuts, traffic, and inadequate public transportation were important barriers to mobility, and therefore to social participation” and that “stairs, doorsteps, heavy doors, lack of ramps, narrow or cluttered aisles and checkouts[] are some of the many physical barriers at the entrance and inside buildings that affect mobility, and consequently social participation of people using all types of [mobility assistive technology]. . . .”); Lisa Stafford, Leonor Vanik & Lisa K. Bates, *Disability Justice and Urban Planning*, 23 *PLAN. THEORY & PRAC.* 101, 118 (2022) (“The visibility of disability is limited by the unfortunate Catch-22 that an inaccessible built environment and culture have made it challenging, if not impossible, for disabled folks to participate in public life.”); Joy Hammel, Susan Magasi, Allen Heinemann, David B. Gray, Susan Stark, Pamela Kisala, Noelle E. Carozzi, David Tulsy, Sofia F. Garcia & Elizabeth A. Hahn, *Environmental Barriers and Supports to Everyday Participation: A Qualitative Insider Perspective from People with Disabilities*, 96 *ARCHIVES PHYSICAL MED. & REHAB.* 578, 585 (2015) (describing an attempt to patronize a restaurant that “wasn’t accessible” and reporting, “I didn’t want to complain or even know who to complain to so we just went back home,” and explaining, “there’s no good way to check out if things are accessible in advance—they tell you they are and then you get there and they are not. No one’s monitoring this even if it is the law. . . .”).

³³ Emens, *Disability Admin*, *supra* note 18, at 2344 (identifying three main types of disability admin as medical, benefits, and discrimination admin); see also Katherine MacFarlane, *Disability Without Documentation*, 90 *FORDHAM L. REV.* 59, 99–100 (2021) (proposing a documentation-free model to requests for reasonable accommodations and characterizing the interactive process as “burdensome” on disabled students); Doron Dorfman, *Disability Identity in Conflict: Performativity in the U.S. Social Security Benefits System*, 38 *T. JEFFERSON L. REV.* 47, 64–65 (2015) (examining the difficulties of meeting Social Security disability benefit admin requirements); Doron Dorfman, *Re-Claiming Disability: Identity, Procedural*

An empirical analysis of survey responses from disabled travelers who booked or attempted to book a room at a hotel—the novel dataset examined in this Essay—reveals a major form of “discrimination admin.”³⁴ The stories presented here were collected from a survey documenting the challenges disabled individuals have faced in securing accessible hotel reservations.³⁵ Conducted from May to July 2023, the survey received 212 responses from 173 respondents.³⁶ Stories from these disabled travelers reflect widespread noncompliance with the Reservation Rule. For the respondents in this survey, inaccessible travel led to high costs and administrative burdens, unequal treatment, stigmatization, and dignitary harms.

The ADA and its implementing regulations represent legislative efforts to make social and commercial life equally open to disabled people and, thus, to reduce these harms. Compliance is required, however, for the ADA to fulfill its promise of inclusion for all Americans. Absent rigorous enforcement, disabled people will continue to bear an outsized administrative burden—including the time and

Justice, and the Disability Determination Process, 42 LAW & SOC. INQUIRY 195, 222–24 (2017) (describing the experience of people with disabilities as they navigate the process of claiming Social Security benefits); see also Oren R. Griffin, *Social Security Disability Law and the Obstacles Facing Claimants with Mental Disabilities*, 36 LAW & PSYCH. REV. 147, 183 (2012) (explaining the lengthy determinations required before Social Security disability benefits can be granted).

³⁴ Emens, *Disability Admin*, *supra* note 18, at 2350–51 (defining “[d]iscrimination admin” as “the work of deciding when, whether, and how to speak up to challenge discriminatory treatment or words” and noting that it includes both contesting biased and unfair treatment and requesting legally mandated accommodations).

³⁵ The survey was designed and administered by Fox & Robertson, a civil rights law firm, in collaboration with Disability Rights Education and Defense Fund, The Arc of the United States, National Disability Rights Network, and Paralyzed Veterans of America.

³⁶ The survey received 217 responses, of which 212 were included in the dataset, with the remaining five removed as incomplete or inapt. Some survey respondents submitted multiple responses to the survey form, accounting for the lesser number of respondents compared to responses. For instance, Louise, whose adult daughter is deaf and has spina bifida, reported nine instances of recurring struggles to find a room that is genuinely accessible to her daughter. Survey questions are included, *infra*, in Appendix A. Special thanks go to the Human Research Protection and IRB Offices at Columbia University and the University of Pennsylvania for their speedy responses to our queries enabling timely publication and care toward the privacy and autonomy of the research participants in this Essay’s analysis of this existing dataset.

effort involved in challenging noncompliance, both in and out of the courts.

This Essay consists of three Parts. Part I examines the stories of disabled travelers whose experiences highlight how widespread noncompliance with the ADA colors travel for disabled individuals. This Part presents violations organized around core components of the Reservation Rule. These firsthand accounts demonstrate that Acheson Hotels' assertions in its briefs—and those of other hotel operators represented by amici—understate the burdens on disabled individuals trying to secure adequate accommodation.

Part II considers the implications of the accessibility barriers discussed in Part I for disabled people's professional, leisure, and family lives. These stories showcase the widespread impact of inaccessible travel and, in doing so, explore the harm associated with systemic noncompliance with the Reservation Rule.

Part III discusses the stigma imposed on disabled litigants by Acheson Hotels and associated amici in court filings, examines the filings' trivializing of the harm of Reservation Rule noncompliance, reviews key forms of harm evidenced by the narratives, and evaluates storytelling as a tool for combatting the stigma.

I. Firsthand Accounts of Disabled Individuals Burdened by Violations of the Reservation Rule

For disabled travelers, booking and obtaining accessible lodging is an arduous process. For starters, simply determining whether a hotel is accessible can be burdensome because hotel websites and other online reservation systems frequently fail to provide information about accessibility, as in the *Acheson Hotel* case before the Court.³⁷ Then, even if a hotel is accessible, disabled individuals

³⁷ The First Circuit found that Laufer suffered a concrete injury and that her feelings of frustration, humiliation, and second-class citizenry were indeed downstream consequences and adverse effects of the informational injury she experienced. The Supreme Court granted review to resolve a circuit split on the question of whether ADA testers have sufficient Article III standing for injunctive relief. *See Laufer v. Acheson Hotels, LLC*, 50 F.4th 259, 274 (1st Cir. 2022) (“In the age of websites . . . a disabled person can comb the web looking for non-compliant websites, even if she has no plans whatsoever to actually book a room at the hotel. . . . Has she suffered a concrete and particularized injury in fact to have standing

typically must expend substantial time and energy to secure an accessible reservation. Then, even if a hotel guarantees the accessible room, disabled travelers are often denied the accessible room or features that were promised, on arrival at the hotel. These additional violations of the Reservation Rule compound the hotel's noncompliance with the Rule's informational requirements and, as a result, the harm experienced by disabled travelers.

The Reservation Rule comprises several, interrelated obligations:

A public accommodation that owns, leases (or leases to), or operates a place of lodging shall, with respect to reservations made by any means, including by telephone, in-person, or through a third party – (i) Modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms; (ii) Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs; (iii) Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type; (iv) Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations systems; and (v) Guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer,

to sue in federal court? Contrary to the district court's thinking, we think the answer is yes.”).

Id.

regardless of whether a specific room is held in response to reservations made by others.³⁸

These five interrelated demands should function together to reduce the injuries sustained by disabled travelers unable to obtain reliable, accurate accessibility information and unable to reserve rooms in the same manner as nondisabled travelers. However, survey responses suggest that noncompliance is widespread, and pervasive violations of multiple Rule provisions intensify the harms associated with inaccessibility.

Responses to the survey demonstrate violations of core requirements of the Reservation Rule falling into three broad categories: first, reports from individuals who were unable to acquire accessibility information about the hotel online because the hotel failed to “[i]dentify and describe accessible features . . . and guest rooms offered through its reservations service in enough detail to reasonably permit [disabled individuals] . . . to assess independently whether a given hotel or guest room me[t their] accessibility needs” (that is, the Rule’s subsection (ii));³⁹ second, reports from individuals who were unable to secure an accessible room either (a) because the hotel was unwilling or unable to confirm or guarantee at the time of booking that an accessible room “of the type [requested]” would be available for the disabled traveler (that is, the Rule’s subsection (iii)),⁴⁰ or (b) because the hotel confirmed or “guarantee[ed]” an accessible room at the time of booking but, at the time of travel, did not or could not “hold” or make an accessible room “of the type [requested]” available to the disabled traveler upon arrival (that is, the Rule’s subsections (iv) and (v));⁴¹ and third, reports from individuals who were unable to reserve accessible rooms “during the same hours and in the same manner” as individuals who do not require accessible rooms (that is, the Rule’s subsection (i)).⁴²

Survey responses reveal that inaccessibility is commonplace for disabled travelers. Experiences of disabled people attempting to engage in accessible travel indicate that a disparity remains between the convenience and efficiency of travel for disabled and nondisabled

³⁸ 28 C.F.R. § 36.302(e)(1)(iii) (2010).

³⁹ *Id.* § 36.302(e)(1)(iii).

⁴⁰ *Id.*

⁴¹ *Id.* § 36.302(e)(1)(iv)–(v).

⁴² *Id.* § 36.302(e)(1)(i).

people. Indeed, people with disabilities must expend considerable time and energy evaluating accessibility features, confirming the accuracy of accessibility information, and responding to inaccurate accessibility information. The following accounts suggest the ubiquity of travel horror stories in the disabled community, driven by noncompliance with the Reservation Rule.

Because noncompliance is so widespread, individual responses to the survey often depicted more than one type of violation. This Part nonetheless presents a series of stories organized around the particular types of violations of the Reservation Rule outlined above: (A) reports that hotels did not identify and describe accessible features, (B) reports that hotels subverted their obligation to confirm, guarantee, and hold accessible rooms, and (C) reports that indicate disabled travelers could not book hotel reservations in the same manner as nondisabled travelers. Each Section spotlights one category of violation, while also evidencing the detrimental interplay between the types of violations so often encountered by disabled people who are attempting to travel.

A. Experiences of Travelers Unable to Acquire Accessibility Information About the Hotel Because the Hotel Failed to Identify and Describe Accessibility Features

Some respondents were unsuccessful in acquiring accessibility information during their initial outreach, whether over the phone or on a hotel website. Asked whether they received the necessary information to make a reservation on their first try, 89 of the 212 responses indicated they did not.⁴³ Many respondents reported expending added time and energy learning about accessibility offerings

⁴³ See *infra* Appendix B (tallying survey responses to key questions). In response to the survey question, “Did you get the information you needed to make a reservation on your first try?,” 96 responses indicated “Yes” or another affirmation confirming that they had received required accessibility information on their first try. Eighty-nine responses indicated “No” or a similar term indicating that they did not receive required accessibility information on their first try. Twenty-seven responses either did not specify, or provided responses that were too ambiguous to sort into “Yes” and “No” categories; responses like “Sometimes” or “We thought so” were placed in the ambiguous category for this question. Responses were coded by at least two evaluators to ensure accuracy and consistency.

when online information was lacking.⁴⁴ Others reported being met with hostility when requesting accessibility.⁴⁵ These stories highlight the effects of hotels' failures to "[i]dentify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs."⁴⁶ Noncompliance with this Reservation Rule provision threatens not simply the convenience of traveling with a disability, but also the autonomy, security, and dignity of the disabled person.

Lia⁴⁷

In 2019, the respondent we call Lia was attending an important family event in Oakland, California. Lia is a power wheelchair user and requires an accessible hotel room when traveling to accommodate her wheelchair. Lia initially attempted to reserve a room at a major hotel chain through the hotel's website, but she was unable to obtain an accessible booking online and could not decipher if or how the hotel would accommodate disabled travelers. Lia then called the hotel directly and requested an accessible room, which the hotel staff confirmed. By that point, the hotel had provided Lia with vague assurances of accessibility, but she was not informed about specific

⁴⁴ In addition to the reports of resource expenditure spotlighted in the stories above, some respondents, like Anna, were successful after expending time ascertaining whether a hotel was accessible because this information was not available on the website. Preparing for a vacation, she emailed the hotel to ask what was available for individuals with disabilities, and the hotel responded that nothing was accessible. Ultimately, her family decided not to take the trip. While Anna was able to receive the essential information she needed about accessibility offerings after an email exchange, and her security was not compromised by misinformation or inaccessibility due to the hotel's transparency over email, Anna would have been able to quickly adapt to this information had it been available online. The Reservation Rule's design aims at preventing the necessity of exchanges like that which Anna engaged in while planning her family vacation.

⁴⁵ See, e.g., One respondent, Jane, reported, hotel staff "acted like I was being an e[n]titled jerk for asking for accom[m]odations."

⁴⁶ 28 C.F.R. § 36.302(e)(1)(iii).

⁴⁷ Many respondents invited use of their names along with their stories, but to protect the privacy of all respondents, and ensure they do not face retaliation, we use pseudonyms for the participants throughout the Essay, and we do not name the hotels involved.

accessibility features and not told how the room would meet her access needs.

When Lia arrived at the hotel, she discovered the hotel had assigned her a room that was purportedly accessible but did not meet the needs of wheelchair users. Because she didn't receive necessary information about the hotel's accessibility features, Lia reports that she was subjected to an inaccessible stay that imposed financial and personal costs. The room was so small Lia was unable to turn her chair. She struggled to fit her wheelchair between the bed and other furniture. The hotel's insufficient accessibility information also resulted in loss of independence. Unable to navigate to the room's bathroom, Lia traveled to a local friend's home to use the bathroom. Lia also hired an attendant to sleep in the room with her, as the tight space would not allow her to independently access the bed from her wheelchair. The hotel's failure to accommodate forced Lia to sacrifice her personal privacy and intimacy for basic access and security. In Lia's words,

They said yes [to booking an accessible room] but when I got there their idea [of] access was not accessible. . . . [I] had to use [the] bathroom at a local friend's home, had to hire attendant to sleep in hotel with me since [I] couldn't independently access [the] bed. They claim the room was accessible, but it was incredibly small. No turn space. [I] barely fit [my] wheelchair between bed and furniture.

Gabbie

In 2019, Gabbie and her husband were traveling to Washington, D.C., for a meeting with the U.S. Department of Transportation. Gabbie and her husband needed an accessible room during their travel because both use mobility aids: power wheelchairs and a service dog. Gabbie booked a room near the Navy Yard neighborhood. The hotel's service dog policy was not listed on their website, and Gabbie was unable to acquire this information when she called the hotel directly.

When the couple arrived at the hotel, an accessible room was available, but the hotel staff initially refused to allow Gabbie to stay in it because of her service dog. The hotel staff informed Gabbie she would

have to stay on the “pet floor” of the hotel, pay a pet fee, and sign additional paperwork. As Gabbie noted,

We showed them the laws, and they refused to read them.

After the couple disputed their rights with hotel staff, one hotel staff member called the hotel owner who also insisted that Gabbie be treated as traveling with a “pet” rather than a service animal. Eventually, however, the staff relented:

They agreed we could stay in an accessible room not on the pet floor, but we would not get any room service or housekeeping services.

Gabbie has agoraphobia, post-traumatic stress disorder, bipolar disorder, and two forms of arthritis. Her husband has chronic fatigue syndrome. Having been denied ADA accessibility and required to plead for their needs resulted in physical and emotional harm, Gabbie and her husband faced the following consequences:

We had been on the train for nearly 12 hours, then on the metro for probably 20 minutes to get to our hotel. We were exhausted and both my husband and my medical conditions were acting up (we are both disabled). The hour we spent arguing with hotel staff meant we did not have the energy to go get food. The stress of the encounter meant we were not comfortable in our room. We hardly got any sleep and were not well rested for our meeting with the Department of Transportation the next day.

Peyton

In 2023, Peyton, a wheelchair user, stayed at numerous hotels to participate in archery tournaments. Her reservations are often made in a group, so the accessibility information—if not available on the website—is more difficult to associate with her specific reservation. Because of a widespread lack of accessibility information on hotel

bookings, Peyton faces constant uncertainty about the safety of her prospective stays. When Peyton arrives at hotels and finds she cannot be accommodated, she must adapt in real time to inaccessible settings that risk her safety. Once, because of lack of accessibility information and accessible offerings, she was forced to take “washcloth baths for four days” while competing in the sports tournament. The hotel, in their noncompliance, denied Peyton the opportunity to bathe for numerous days, an especially awkward and uncomfortable imposition on a traveling athlete.

As Peyton detailed,

Frequently I don't find out about the problem until I'm in the room and then I use the hotel staff. . . . [I] risked my safety, had to repeatedly ask for help. . . . If a tester identified these problems before real discrimination occurred it would make my life vastly easier.⁴⁸

Disregard for the Reservation Rule’s second subsection—which requires hotels to place adequate accessibility information on their websites—contributes to significant administrative burdens, presents safety risks, and signals exclusion of disabled travelers. The harm caused by lack of information therefore has meaningful consequences. The following Sections demonstrate that the denial of accessibility information in concert with other violations of the Reservation Rule compounds the harm experienced by disabled travelers.

B. Experiences of Travelers Unable to Successfully Reserve or Rent an Accessible Room

Of the 212 responses, 96 indicated they were able to receive the information they needed to make a reservation on their first try.⁴⁹ Only

⁴⁸ Peyton presumably considers the risks to her safety to be more serious discrimination than whatever occurs during the booking process, or she may not know that hotel failures to ensure an accessible booking process are also discrimination. In either case, her reference to “real discrimination” is not a legal conclusion.

⁴⁹ As noted earlier, 89 responses indicated that they were *not* able to receive the information they needed to make a reservation on the first try, and the remaining

77 of these individuals were ultimately able to reserve a room with the accessibility features they needed, and 19 individuals were able to receive the accessibility information on their first try but found the rooms they rented were ultimately unavailable. Out of the 77 responses indicating accessibility information was available initially and reserving the accessible room was possible, 36 responses provided that, even though the room reserved was available, the room did not have accessibility features promised during the reservation process.⁵⁰

1. Hotels Unwilling to Guarantee an Accessible Room

Some respondents indicated hotels violated provisions of the Reservation Rule by failing to “ensure that the guest rooms requested are blocked and removed from all reservations systems” and “guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer.”⁵¹

This Section documents the stories of individuals who were unable to guarantee an accessible reservation. Some respondents either canceled trips or accepted the seeming inevitability of hotel inaccessibility.

27 gave responses that were too vague or ambiguous to code reliably either way. *See supra* note 43 and accompanying text.

⁵⁰ *See infra* Appendix B (tallying survey responses to key questions). Ninety-six responses indicated “Yes” to “Did you get the information you needed to make a reservation on your first try?” Nineteen responses indicated “Yes” to “Did you get the information you needed to make a reservation on your first try?” and also indicated “No” to “Were you able to reserve a room with the accessibility features you needed?” Seventy-seven responses indicated “Yes” to “Did you get the information you needed to make a reservation on your first try?” and indicated “Yes” to “Were you able to reserve a room with the accessibility features you needed?” Thirty-six responses indicated “Yes” to “Did you get the information you needed to make a reservation on your first try?” and indicated “Yes” to “Were you able to reserve a room with the accessibility features you needed?” and then indicated “No” to “If the room you reserved was available, did it have the accessibility features you were promised during the reservation process?”

⁵¹ 28 C.F.R. § 36.302(e)(1)(iii).

Erica

In 2023, Erica traveled to Nashville, Tennessee, for work. Erica sought an accessible room that accommodated her wheelchair, which she uses for her chronic illness. The hotel's website suggested the hotel would attempt to accommodate accessibility requests but could not guarantee accessible rooms. Unable to establish whether an accessible room would be available during her stay, she called to make her specific request.

When she arrived, Erica found the hotel had assigned an inaccessible room to her, even after she reiterated her accessibility needs at check-in. The hotel's failure to deliver on its accessibility obligations not only resulted in disruption of her professional travel, but also required Erica to repeatedly disclose her intimate disability-related needs to hotel staff and others. As Erica recounts,

[The] room I was provided was not accessible, even when I asked about it upon check-in. [I] had to retreat to [the] front desk with all my luggage and try a different room, which did end up being accessible. . . . [I] needed to rely on others because of the difficulty moving my luggage up and down the elevator, down hallways, and back to the lobby to get another room.

Selena

Selena has multiple sclerosis, resulting in her use of a service dog and wheelchair. In 2023, she planned to attend a conference in Anaheim, California. Selena could not find any accessibility information on the hotel's website. Unable to find a hotel that would guarantee an accessible reservation, she chose not to attend the event. For Selena, the inconvenience of planning a trip without accurate accessibility information, as well as the prospect of not being accommodated, resulted in a professional sacrifice. Selena shared,

They said an accessible room would be requested but not guaranteed. . . . I chose not to attend the conference, so I missed it.

Alex

Alex has had progressive hearing loss since preschool. Before the pandemic, she used to engage in frequent work travel. When booking on a third-party website, Alex was unable to confirm and guarantee the necessary accessibility features she required, such as doorbell alarms and televisions with closed captioning.

Pre-covid, I was traveling 8-12 times a month, and am starting to travel again. I never have stayed in a room that was fully accessible for a person with hearing loss . . .

She explained that she can almost never confirm in advance of her stay the availability of what she requires for an accessible experience. Because she often prepays for trips, she has lost money on reservations when she has realized the hotel does not have the features to ensure her safety and security:

Older hotels/motels often have fire alarms in the hallways, which doesn't help me in my room when I am sleeping. Newer or remodeled hotels often have it in the room. I do not know ahead of time when booking.

Without accommodations for hearing loss, Alex can have difficulty hearing the hotel staff, compounding harm imposed by the hotel's failure to provide required information online:

During check-in/out, depending on the associate's speaking clarity, the acoustics of the check-in area space, and the background noise, I may or may not be able to understand the clerk. A counter hearing loop would help in all hotels, as standard equipment for all guests. It makes no sense to request a hearing loop during booking.

For individuals like Alex, detailed information about accessibility, and confirmation of a hotel's ability to deliver accessibility, does more than make trips more convenient—this information and confirmation are

vital to a safe environment for her. As Alex's travel demands increase after the pandemic, she remains concerned:

All of this results in me being stressed, not sleeping well, and being in a dangerous situation if an emergency were to happen. As I start traveling again, I don't see that anything has changed.

Unable to access reliable information about a hotel's accessibility, the individuals in this Section have reshaped their travels around the inevitability of inaccessible environments—that is, around the presumption of inaccessible travel as the norm. Travelers like Alex have been forced to accept unsafe and unhealthy travel realities. As a business traveler, Alex has had to navigate an inaccessible process for clarifying accessibility needs and disclose personal information, sometimes acquiescing to compromised security in the event of an emergency. As an individual interested in the educational and networking opportunities offered at conferences, Selena has had to balance her interest with the uncertainty, discomfort, and embarrassment of inaccessible travel, ultimately withdrawing from these events. Even individuals like Erica, who were ultimately able to stay in an accessible room despite having no guarantee of its availability, endured physical and emotional vulnerability to procure such access. Without the confirmation and guarantee of accessible bookings required by the Reservation Rule's third provision, disabled individuals face numerous barriers to travel. As the next Section explores, some travelers who manage to gain guarantees are still not ensured an accessible stay.

2. Hotels Fail to Provide an Accessible Room After Guaranteeing It in Advance

Some hotels violate the Reservation Rule by failing to deliver on their guarantees of accessibility. Even after acquiring accessibility information, receiving confirmation, and obtaining a guarantee, some disabled travelers ultimately encounter inaccessibility.

These responses show that, even when accessibility information is forthcoming, it is often misleading when unaccompanied

by the type of guarantees required under the Reservation Rule.⁵² Inaccurate assurances of accessibility from hotel staff lead to painful, insulting, and costly consequences. In these accounts, hotels frequently violate the Reservation Rule not simply by failing to provide accessibility information but also by providing misleading, incomplete, and inaccurate information or by giving accessible rooms away after disabled travelers had booked them.

Dani

In 2022, Dani was traveling for work and decided to stay with a major hotel chain in Texas. Dani is a public speaker managing a multi-million-dollar non-profit organization. She has Limb Girdle Muscular Dystrophy and requires a roll-in shower. In part because her disability is degenerative, Dani aims to travel as much as possible while she can. For this trip, she ascertained that the hotel had roll-in shower rooms from the hotel website and booked an accessible room. She also called the line associated with the specific hotel to confirm her room was accessible. Upon arrival, she learned the room she booked was no longer available.

I had reserved online initially an accessible room. I called to confirm that it was an accessible room with a roll in shower. When I got there, I confirmed at the desk I was getting an accessible room. When I got to the room, I quickly realized that the room was for hearing impaired people. Basically, there was a very loud doorbell. I could not use the shower tub as I am unable to lift my legs due to my muscular dystrophy. A trip back to the front desk revealed that was the only “accessible room they had left” and I reminded them I had called a few times in the weeks leading up to that date.

For Dani, the hotel’s vague promise of accessibility was inadequate and inaccurate, and their confirmation ultimately meaningless, when the hotel neglected to preserve Dani’s

⁵² See *supra* note 8 and accompanying text.

reservation. The hotel did not follow its legal obligation to afford Dani the ability to plan for travel and book her hotel knowing whether and how she would be accommodated.⁵³ She outlined the consequences as follows:

I ended up staying and not showering for three days, instead, trying to make do with a washcloth which is not the same thing at all. They were apologetic, but said they never know truly if the accessible room will be available.

Hotel employees dismissed their noncompliance with the Reservation Rule⁵⁴ with an apology. For Dani, the hotel's tacit resignation to inaccessibility resulted in her loss of time and her inadequate hygiene.

I feel like confirming multiple times, even the day before, should be more than enough to guarantee the accessible room I paid for.

Beyond the inability to equally enjoy the hotel's service—that is, a functional shower—Dani felt alienated by the hotel's disregard for her dignity and humanity:

⁵³ The Reservation Rule's drafters emphasized that hotels must go beyond vague promises of accessibility and specify features included in accessible rooms. *See* Reservation Rule Guidance, *supra* note 6, at 805. Specifically,

Individuals with disabilities must be able to ascertain which features . . . are included in the hotel's accessible guest rooms. The presence or absence of particular accessible features may be the difference between a room that is usable by a person with a disability and one that is not. Information about . . . accessible features will minimize the risk that individuals with disabilities will reserve a room that is not what was expected

Id.

⁵⁴ 28 CFR § 36.302(e)(1)(v) (requiring that hotels "guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others").

I have spent my entire career helping people. As a therapist, I know how disheartening it can feel to be treated consistently like a second-class citizen. This is not fair. I have been a contributing member of society my whole life, but find that I am treated otherwise. Very simple changes could be made to clearly outline the content of accessible rooms.

Dani's experience as "a second-class citizen" at this hotel was not her first time dealing with hotels that evaded their obligation to guarantee an accessible room. In 2021, she planned a stay with a different hotel franchise in Palm Springs, California. Having consulted the hotel's website to no avail, she called the hotel to inquire about the availability of accessible rooms. She made phone calls to the reservations line as well as the actual hotel to confirm her room would include a roll-in shower. When she arrived, Dani faced an environment unsuitable for her accessibility needs, entirely unlike what she was promised. As she described,

When I got to the room, I was dismayed to find a bathtub with railings. I called the front desk and told [the employee] I could not use a tub due to my disability and we'd] just take any room with a regular shower. They told me they did not have rooms with showers independently of tubs. I went to the front desk to discuss it and was told there were no showers on site except in the spa even though I had been told differently when I called to make a reservation.

Having communicated with numerous hotel staff members who were unaware of her rights and dismissive toward her needs, Dani requested a resolution. She shared,

I asked if they would close down the spa for half an hour so I could take a shower with my husband's assistance. They refused.

Ultimately, she had to devise her own utterly inadequate solution:

Since it had been four days, I really needed a shower so we went to the spa and plan[ned] to just take it over anyway. There were stairs up to the spa. I ended up going out to the pool in the winter and having my husband drape a big towel to cover me so I could shower outside. Cold and wet, I trudged upstairs to my room with my walker in the wet dress I wore to shower in.

Jean

In 2021, Jean, an actor, director, writer, filmmaker, and advocate, was moving and driving cross-country. Jean is a wheelchair user and made meticulous plans for accessible accommodations at numerous hotels along her route. One such hotel was located in Dayton, Ohio. The hotel's website, where Jean made her reservation for an accessible room, stated that all requests for accessible accommodations were guaranteed.

When Jean was about three hours away from the hotel, she received a call from the hotel's manager letting her know the accessible room was unavailable. Jean, a frequent traveler, estimated she confronts these types of accessibility challenges "50% of the time" she books a room at a hotel.⁵⁵ As Jean expressed,

As I was driving cross country, I received a call from the hotel three hours before arrival saying the room was unavailable. The manager told me even though the website had said the accessible accommodations request was guaranteed, that it was not, and the room was unavailable as it had been occupied by someone else for weeks (which should have therefore been known at the

⁵⁵ In Jean's words,

I travel a lot, and I would say 50% of the time I stay in hotels I have an issue with the reservation of an accessible room. Sometimes it's due to lack of training of the staff (i.e. they give away an accessible room when they aren't supposed to), inaccurate or confusing information on the website, or other issues. (And this isn't counting the times I reserve an accessible room and then arrive to find the room has inaccessible features, like a bed that is too high or a lift that doesn't work.)

time I made the reservation two weeks earlier). The manager made no offer to assist me with other accommodations.

After the hotel disregarded their legal responsibilities, hotel representatives provided some limited assistance with her next steps but failed to provide Jean one key remedy she sought: acknowledgement of the hotel's failure and the associated consequences.

Luckily my brother and friend were traveling with me, and we immediately called the main hotel number However, the only thing they offered was to check other hotels in the area for availability—no acknowledgement of the failure to honor the reservation, no offer of compensation for the unfulfilled reservation three hours before check-in.

Not only do travelers like Jean need to make numerous phone calls to confirm accessible hotel reservations, but they must also bear the costs of discrimination admin⁵⁶ when these hotels do not deliver on their legal commitments. As Jean confirmed, this time and resource expenditure feeds into the systems that marginalize and stigmatize disabled people. Disabled individuals like Jean are so busy fighting to meet their most immediate needs, such as obtaining an accessible room in real time, that they are often unable to devote resources toward addressing the systems that deny their rights. Jean recounted,

I always have to call once or more after making a reservation to confirm that the reservation is for a mobility accessible room, and what that means at their particular hotel chain, and that the reservation is clearly marked in their system for an accessible room. . . . Most people who work at or operate the hotels have no understanding of the level of difficulty it creates for

⁵⁶ Emens, *Disability Admin*, *supra* note 18, at 2350–51; *see also supra* note 34 (defining discrimination admin).

a person with a disability. And, there is little to no recourse . . . as in this case, the only recourse was to contact the hotel chain and hope they would offer some sort of apology or compensation. But, that doesn't help to change the system.

Andrew

Andrew, who has a spinal cord injury and uses a wheelchair, was able to secure an accessible room on a hotel website in Brighton, Michigan. But when he arrived late at night, the room he'd reserved and paid for had been given away:

I arrived at 3 AM and the person on duty said they had no room for me available and the next closest was 20 miles away. They also refused to refund me. After talking to support, I got the refund but they were unable to give me lodging because they gave my room away to someone else. I had reserved this room several months in advance and got a confirmation that it was an accessible room. I was traveling with my wife and 6 month old son. When this happens at 3 am it makes it worse because now my family has no where to sleep after a long and exhausting trip.

These stories exemplify the mechanics of how travelers with disabilities struggle to ascertain, confirm, and guarantee reliable and accurate accessibility information. Unable to trust assurances of accessibility, disabled people may be forced to plead with hotel staff to get the room the hotel already promised. Disabled travelers compromise personal hygiene, psychological and physical well-being, and time adapting to environments that signal disabled individuals do not belong.

For respondents discussed in this Section, the guarantee of access meant little when hotel staff failed to comply with other essential elements of the Reservation Rule that are interdependent, denying the existence of accessible bookings and failing to adapt to critical disability-related needs. For these travelers, Reservation Rule noncompliance manifested primarily in the quality of the accessibility information provided and in the hotel's delivery on their promises—

justifying disabled individuals' fear of unreliable and inaccurate guarantees of access that would ultimately trigger additional admin burdens.

C. Experiences of Travelers Unable to Acquire an Accessible Room in the Same Manner and During the Same Hours as Inaccessible Rooms

Overall, the surveys reflected how disabled people routinely cannot book and actually rent rooms that meet their needs in anything like the same process used by nondisabled people. These stories exhibit how far hotels veer from the Reservation Rule's requirement that hotels modify "policies, practices, or procedures to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms."⁵⁷

Sheila

Sheila, a 68-year-old woman with muscular dystrophy, traveled to Richmond, Virginia, for an important family gathering in 2022. She was able to gain ostensible accessibility information after a phone call to the hotel where she would be staying. For added due diligence, she sent her brother to the hotel location in order to verify that the room she reserved had an accessible path of travel, roll-in shower, and other accessibility features she required. He took pictures and sent the documentation to Sheila.

When Sheila arrived from California to Virginia for her stay, hotel staff informed her that the room in question did not exist. She showed her reservation information as well as photos taken by her brother to prove the existence of the accessible accommodation. The accessible room she booked ultimately was available, but only after she had engaged in lengthy interactions with hotel staff. As Sheila provided,

It's really frustrating to spend hours on the phone explaining what you need and being assured that they can accommodate you and then after hours of travel

⁵⁷ 28 C.F.R. § 36.302(e)(1)(iii).

which is exhausting when you're physically challenged being told the room doesn't exist when you have pictures because your brother went and checked out the accommodations for you and sent pictures.

Sheila framed this discriminatory and demeaning treatment as a potential deterrent for travel. She stressed that the costs of travel are higher for disabled people, and the added harm of alienation only heightens these costs. As Sheila expressed,

I don't want to be unable to see friends and family across the US because I'm treated like I just don't matter by hotel staffing. Just getting where I'm going is challenging enough without being thoroughly frustrated when I arrive.

Ultimately, this story was a successful one, since Sheila was able to obtain an accessible room, but only after a process that was far from equal.

Describing a separate incident in which she was denied an accessible shower and forced to bathe using a sink, Sheila emphasized the universality of inaccessible travel experiences:

I have sent you 2 stories, but it's the story of my traveling life. I don't want to have to be cooped up because I'm physically challenged.

Sheila's stories exemplify differences in the manner of travel booking between disabled and nondisabled people. Her process of trying to obtain a room she can actually stay in goes well beyond anything most nondisabled people can imagine—both in terms of the precautions she takes on the front end, and the frustrations and negotiations she faces on the back end.

Judy

One respondent, Judy, described an arduous process of booking accessible travel during a family road-trip to see her son who had returned from his first tour in the Army in Afghanistan.

My husband was in a motorcycle accident in 2014[.] He is a paraplegic at T5. This was our first time trying to travel.

The hotel website where she was booking did not have accessibility information pertaining to wheelchairs. She called the hotel directly multiple times to confirm, expending far more time preparing for her trip than nondisabled travelers. Ultimately, despite engaging in a meticulous process of booking and confirming accessible travel, Judy and her husband were denied the accessible reservation they had confirmed. She noted,

They gave our room to someone who was not in a wheelchair and tried to give us a hearing impaired room. I called to confirm the room with the roll in shower so many times. I left my husband and teenage son in the car directly in front of their main door. I told them if they didn't figure it out I was going to bring my husband inside in his wheelchair and it would be a scene.

Recounting the event, Judy described the discrimination her family experienced on the trip to welcome home her son as “embarrassing and frustrating.”

To permit reserving and renting an accessible room, this hotel imposed higher burdens on individuals like Judy’s husband⁵⁸ than on nondisabled families traveling that day. These experiences are just one telling example of the inequity between the ways that nondisabled and disabled travelers must work to reserve and access hotel rooms.

⁵⁸ See, e.g., Rod, another respondent, described the frustration of expending added time and labor reserving accessible hotels. He noted, “The time and lack of communication is the most frustrating. I simply want to make a reservation and go about my day. I’ve spent upwards of a week getting things worked out. It’s ridiculous.”

Acheson Hotels projects an erroneous notion that a hotel's failure to provide accessibility information can be resolved through a simple phone call. This claim, however, does not reflect the lived experiences of disabled people who are already expending ample time, energy, and expense investigating ADA compliance on their own time, often without a successful outcome. Even when travelers have seemingly identified and confirmed a hotel's accessibility offerings—through the phone call Acheson Hotels proposes—they are still left unaccommodated, exposed, and at times even humiliated. For those unable to find accessibility information, this uncertainty typically means preparing for inaccessible travel or missing out altogether.

When hotels neglect disabled individuals, they contribute to harms that deter disabled people from travel. Trivializing the concrete harms associated with travel uncertainty at all phases of the planning process—as well as the harms of inaccessibility—only further marginalizes disabled people. The next Part addresses how the injuries stemming from violations of the Reservation Rule affect the professional, leisure, and family lives of people with disabilities.

II. How Travel Inconvenience, Inefficiency, and Inaccessibility Affect Disabled Lives

Inaccessible and uncertain travel imposes concrete and material burdens on disabled lives. This Part presents respondents' accounts of the impact of hotel inaccessibility in three areas of daily life: professional, leisure, and family/social life.

A. Professional Impact

Out of the 209 responses reporting a negative experience seeking an accessible hotel reservation,⁵⁹ 41 respondents indicated “Work Travel” was one of the reasons or the only reason for their

⁵⁹ Three out of 212 survey responses reported positive experiences. For instance, Charlotte said “Website was amazing—gave actual inches of clearance.” Nearly all of the survey responses reported negative experiences with hotel accessibility, however, which is perhaps unsurprising given widespread noncompliance with Title III, as reported elsewhere, *see infra* note 104, and the labor involved in responding to a survey of this kind, *see infra* text accompanying note 121 (discussing this labor).

travel.⁶⁰ These reports are particularly troubling in the context of employment rates for people with disabilities.

People with disabilities face numerous barriers to full professional engagement. In 2023, the U.S. Department of Labor estimated people with disabilities have a labor force participation rate of 39.7% compared to 78.4% among people without a disability.⁶¹ A 2019 study analyzing the relationship between disability employment rates and disability prejudice⁶² found states with higher disability prejudice have lower disability employment rates.⁶³

Respondents in the survey presented in this Essay reported experiences of marginalization, physical distress, and perceived indifference to the needs of disabled travelers when they attempted to book and rent accessible hotel reservations during work trips. For individual survey respondents, hotels' noncompliance with the Reservation Rule resulted in economic and noneconomic losses, including lost professional opportunities, additional financial and time expenditures, and physical and emotional harms.

⁶⁰ See *infra* Appendix B (tallying survey responses to key questions).

⁶¹ Off. of Disability Emp. Pol'y, Disability Employment Statistics, DOL, <https://www.dol.gov/agencies/odep/research-evaluation/statistics> [<https://perma.cc/QDP5-J5KK>] (noting the labor force participation rates in June 2023).

⁶² Carli Friedman, *The Relationship Between Disability Prejudice and Disability Employment Rates*, 65 WORK 1, 7–8 (2020) (measuring “disability prejudice” with the “Disability Attitudes Implicit Association Test (DA-IAT)[.] . . . one of the most common methods to measure implicit disability prejudice” and explaining that “[t]he DA-IAT presents participants with ‘disabled persons’ and ‘abled persons’ categories, and ‘good’ and ‘bad’ attitudes, and asks them to sort word and symbol stimuli accordingly” and that “[t]he DA-IAT examines people’s associations and attitudes by measuring reaction time when items are sorted in stereotype congruent and incongruent ways; the quicker the reaction time, the stronger the association between groups and traits. . .”).

⁶³ Carli Friedman, *The Relationship Between Disability Prejudice and Disability Employment Rates*, 65 WORK 1, 8, 10 (2020) (concluding, based on a linear regression model, that “states with higher disability prejudice have lower disability employment rates, suggesting employment disparities are intertwined with disability prejudice”).

Rachel

Rachel, a writer and wheelchair user, traveled to Connecticut for a writers' residency in 2023. In charge of her own reservations for the trip, Rachel made an online booking for an accessible room at a popular hotel in Hartford, Connecticut. She would be making a trip across the country to participate in this exclusive experience for artists. Rachel arrived at the hotel close to midnight, exhausted from a long day of travel. The room she had requested was available, but she discovered after check-in that her room did not meet her accessibility needs. She was unable to navigate the bathroom with her wheelchair, and the bathroom lacked grab bars to support Rachel as she maneuvered in the new space. Without these critical features, Rachel was forced to place her body at risk and crawl on the bathroom floor.

I was told it was accessible, but when I checked into the room (at nearly midnight, after a long day of travel) the bathroom was so small I couldn't even get my wheelchair in, and there were no grab bars. . . . [I] had to crawl into the bathroom, which was painful.

Renee

In 2022, Renee, an associate professor and mother of three children, planned to stay at a boutique hotel in Washington, D.C., for work. Renee uses a wheelchair because she has osteogenesis imperfecta.⁶⁴ Her employer booked the reservation for her but was unable to gather information about emergency exits when booking. When Renee arrived, she settled into her accessible room on the ninth floor. Her ease was short-lived:

My room was accessible. Their response [during] an emergency was not.

⁶⁴ Osteogenesis imperfecta, also known as brittle bone disease, is a genetic disease resulting in increased vulnerability to bone fractures. See Joan C. Marini & Wayne A. Cabral, *Osteogenesis Imperfecta*, in GENETICS OF BONE BIOLOGY AND SKELETAL DISEASE 397, 397 (2018). It is "characterized by low bone mass, decreased bone strength, increased bone fragility, and shortened stature." *Id.*

During Renee’s stay, the fire alarm went off and she was unable to reach the front desk to inform employees that she was stuck on her floor. At no point had hotel staff discussed an emergency evacuation plan that was feasible for Renee, leaving her physically paralyzed during an emergency—not by her wheelchair, but by the hotel’s failure to account for her presence in its emergency planning:⁶⁵

The fire alarm went off and the elevator was immediately turned off as were the phones to call the front desk. I tried the front desk from my cell phone to let them know I was stuck on the 9th floor and there was

⁶⁵ Cf., e.g., Doron Dorfman, *Afterword: The ADA’s Imagined Future*, 71 SYRACUSE L. REV. 927, 934 n.7, 935 (2021) (“[P]eople with disabilities are often left behind during natural disasters or in a global health crisis.”); Wendy F. Hensel & Leslie E. Wolf, *Playing God: The Legality of Plans Denying Scarce Resources to People with Disabilities in Public Health Emergencies*, 63 FLA. L. REV. 719, 720–21 (2011) (“[P]eople with disabilities are often overlooked or given short shrift when public health emergencies arise. In the best of circumstances, challenges facing this group may be invisible because they arise out of the implicit assumptions and institutional arrangements that form the backdrop of daily life.”); Sharona Hoffman, *Preparing for Disaster: Protecting the Most Vulnerable in Emergencies*, 42 U.C. DAVIS L. REV. 1491, 1491 (2009) (noting that people with disabilities, inter alia, are “often disregarded in [disaster readiness] initiatives”); Jasmine E. Harris, *The Frailty of Disability Rights*, 169 U. PA. L. REV. ONLINE 29, 62–63 (2020) (explaining that emergency-preparedness “plans often group people with disabilities in the populations of at-risk individuals requiring additional planning, rather than looking to contextualize the ways disability laws seeks to mitigate and eliminate risk . . .” and that “[t]his narrative is echoed in the wildfire preparedness and evacuation plans that often fail to adequately account for citizens with disabilities. . . .”); Adrien A. Weibgen, *The Right To Be Rescued: Disability Justice in an Age of Disaster*, 124 YALE L.J. 2406, 2411 (2015) (“[P]eople with disabilities] are particularly at risk during times of disaster as a result of various impairments.”); Rabia Belt & Sharon Driscoll, *After the Hurricane: Rabia Belt on Challenges Facing People with Disabilities in Disasters*, STANFORD LAW BLOG (Sep. 7, 2017), <https://law.stanford.edu/2017/09/07/after-the-hurricane-rabia-belt-on-challenges-facing-disabled-in-disasters/> [https://perma.cc/U3HQ-W9FH] (“Emergency preparedness plans may not address the problems that people with disabilities face”); Jessica Roberts, *An Area of Refuge: Due Process Analysis and Emergency Evacuation for People with Disabilities*, 13 VA. J. SOC. POLICY & L. 127, 128 (2005) (“In discussing emergencies, everyone knows the phrase ‘Women and children first.’ While this notion seems antiquated, there is still a hierarchy of rescue that has nothing to do with age or gender. This platitude might read, ‘People with disabilities last.’”).

no answer. The other hotel guests passed by me in the hallway. I was left until a manager remembered and came to stay with me until the fire department cleared the building. There was never a plan to figure out how to evacuate me.

On top of the workplace prejudices that impede disabled people’s “equality of opportunity, full participation, independent living, and economic self-sufficiency,”⁶⁶ these and other survey responses reveal that disabled work travelers confront physical pain, stress, insecurity, and the emotional effects of repeated discrimination.⁶⁷ Recall the experience of Selena, who wished to attend a conference in Anaheim, California and sought to reserve and rent an accessible room.⁶⁸ The unwillingness of the hotel to guarantee an accessible room resulted in her decision to forgo attending the conference altogether.⁶⁹

These experiences express and reinforce the message that disabled people are not among those who patronize hotels. Even information about *inaccessibility* would help communicate to a disabled traveler that they belong to the community of travelers—they just incidentally cannot stay at a particular hotel because that the building’s construction date places it outside of the law’s reach.⁷⁰ The

⁶⁶ 42 U.S.C. § 12101(a)(7).

⁶⁷ *Cf. infra* notes 70-71 and accompanying text (citing sources discussing research on “belonging uncertainty” and other effects of repeated experiences of discrimination).

⁶⁸ *See supra* Section I.B (Selena).

⁶⁹ *See supra* Section I.B (Selena).

⁷⁰ *Cf. Gregory M. Walton & Geoffrey L. Cohen, A Question of Belonging: Race, Social Fit, and Achievement*, 92 J. PERSONALITY & SOC. PSYCH. 82, 83 (2007) (finding that people who have “belonging uncertainty,” that is, people who doubt the extent to which they belong in relevant spaces, are susceptible to mild indicators of non-belonging and are also very positively influenced by instances of social connectedness and inclusion); *see also* Kinneret Endevelt, Eran Halperin & Roni Porat, Zoom In: A Psycho-Institutional Intervention Improves Minority Student’s Grades in Two Field Experiments (n.d.) (unpublished manuscript) (on file with the author). Endevelt, Halperin, and Porat conducted an experiment at Hebrew University in Israel in 2021, while classes were conducted on Zoom, in which instructors of randomly selected classes were asked to display their Zoom name in English, Hebrew, and Arabic. *Id.* at 6. Palestinian students in classes where the

exclusionary signal sent by the utter absence of accessibility information is a form of rejection, which may well compound and intensify experiences of exclusion and increase reactivity to rejection-prone situations.⁷¹

The stories in this Section add to those described earlier—in which disabled individuals traveling for professional reasons were denied access to a functional shower,⁷² were forced to relocate due to a reservation that was not honored,⁷³ or missed conferences they had planned to attend⁷⁴—showcasing the professional injuries caused by hotels’ disregard of accessibility and accessibility-information requirements.

B. Leisure Travel Impact

Research indicates that disabled people’s motivation to engage in leisure travel⁷⁵ is shaped in part by perceptions of accessibility.⁷⁶ People with disabilities, conscious of the constraints associated with inaccessible travel, sometimes opt out of vacations because of those constraints. Inaccessible hotel environments, as well as the

change was implemented for the last four weeks of class had grades ten points higher on average than Palestinian students in classes with no change. *Id.*

⁷¹ See also Geraldine Downey, Vivian Mougios, Ozlem Ayduk, Bonita E. London & Yuichi Shoda, *Rejection Sensitivity and the Defensive Motivational System*, 15 PSYCH. SCI. 668, 672 (2004) (reporting on an experimental test finding that people with preexisting “rejection sensitivity” have more intense reactions to startling stimuli when they are being exposed to rejection-evoking material).

⁷² See *supra* Section I.A (Peyton).

⁷³ See *supra* Section I.B (Erica).

⁷⁴ See *supra* Section I.B (Selena).

⁷⁵ Numerous social science studies confirm individuals derive substantial value from trip planning, see, e.g., Jeroen Nawijn, Miquelle A. Marchand, Ruut Veenhoven, & Ad J. Vingerhoets, *Vacationers Happier, but Most not Happier After a Holiday*, 5 APPLIED RESEARCH QUALITY LIFE 35, 35 (2010) (indicating vacationers experience greater pre-trip happiness than non-vacationers, whereas post-trip happiness does not vary), and people with disabilities can be harmed by exclusion from that enjoyment.

⁷⁶ Shu Cole, Ye Zhang, Wei Wang, & Chenming Hu, *The Influence of Accessibility and Motivation on Leisure Travel Participation of People with Disabilities*, 36 J. TRAVEL TOURISM & MKTG. 119, 126 (2019) (“[P]eople with mobility impairment agree that leisure travel is appealing and pleasurable, but their intrinsic motivation does not translate into actual participation or future travel intention, in part due to perceived accessibility limitations.”).

inconvenience of identifying accurate accessibility information, contribute to these negative perceptions. In this study, 75 responses indicated “Vacation” was one of the reasons or the only reason motivating the respondents’ travel. Numerous respondents indicated that vacation travel hardly seems worth attempting anymore or said they had severely curtailed or ended vacation travel due to inaccessible lodging. In the words of one respondent, Hannah, “Now I mostly just stay home, it’s too hard.”

Logan

In 2021, Logan planned a stay at a major hotel in Santa Fe, New Mexico, for vacation. They⁷⁷ have several invisible disabilities and use a wheelchair. They made their reservation through a third-party booking website, but it would not guarantee bookings for accessible rooms. They decided to stay at the hotel regardless, hoping they could be accommodated. When they arrived, the hotel offered a room that was close to accessible parking but was very far from the elevator. As a result, Logan expended a tremendous amount of energy trying to reach their room, impeding their enjoyment of vacation activities.

The room was technically the closest to accessible parking, however I had to walk half a block to the elevator, then walk from the elevator to my room which was right above the accessible parking space. Technically closest when measuring distance but the path was 20x ADA guidelines. I had significantly less energy and ultimately had to cancel 50% of why we traveled.

Eager to resolve this accessibility challenge that exacerbated their disability-related symptoms, Logan spent many hours attempting to resolve the situation:

⁷⁷ Logan identified as “non binary” in the survey response, so this Section uses they/them pronouns. Here, as elsewhere in the Essay, the pronouns supplied are supposition, because the survey did not ask respondents to give their pronouns or their gender identity. Respondents sometimes indicated their gender identity or roles voluntarily.

I spent more than 30 hours seeking [a] resolution to an inaccessible experience at the hotel and seeking a refund as well as getting in contact with the VP of [the hotel's] accessibility experiences to talk about what happened to me. I still haven't stayed at another [brand] hotel and [when] booking any hotel at all, I am sure to call and speak to someone rather than relying on any website information. I have avoided travel and when I do travel tend to stick to hotels I've already stayed where I know what my experience will be.

Logan's experience documenting their story for hotel management and pleading for access was colored by their challenges gaining trust as a non-binary person with invisible disabilities.

I am an ambulatory wheelchair user with mostly invisible disabilities. I am non binary and in my late 30s and often experience ableism because I don't "look disabled."

Particularly striking here is Logan's report of the hours spent navigating inaccessibility (which totaled more than a day) and their need to "cancel 50% of why we traveled."⁷⁸

David

In 2023, David vacationed to Phoenix, Arizona, and booked a room at a national hotel chain. He reserved an accessible room with a roll-in shower through the general reservation phone number. When he arrived at the hotel, staff informed him that the accessible room was no longer available and did not propose an alternative. David called the hotel's customer service line to complain, but customer service offered no resolution.

⁷⁸ See *supra* Section II.B (Logan).

They offered no assistance/alternative. I ended up having to split my vacation between two hotels and spending almost \$700 more than I'd planned on it. I called to complain to no avail and filed a complaint via the website and phone service.

Left without a room that could accommodate him, David had to book multiple separate accommodations last-minute, at great financial expense.⁷⁹

Maya

In 2023, Maya booked a hotel room at the Bayshore location of a major hotel chain, located in Eureka, California. Maya is paraplegic and uses a wheelchair. When she travels, she requires a room with low beds and accessible bathroom fixtures. When booking her room online, Maya could not determine whether the hotel had the accessible features she needed. After making the reservation, Maya called the hotel directly to make a request that she be placed in an accessible room.

When Maya arrived at the hotel, she found she was not assigned a room with the accessible features as she had requested. While hotel staff were able to reassign Maya to a room with bathroom grab bars, they said there was not an available room with lower beds. Consequently, Maya relied on her husband to transfer her into bed, compromising the autonomy she usually experiences when navigating a bedroom.

Online features are not always what is available in the rooms reserved. . . . I needed to rely on my husband to

⁷⁹ Another example of a respondent who reported significant financial (and time) costs was Bella who described her extensive efforts to secure a wheelchair accessible room for her first trip with her son since he became paraplegic. She reported, “I had heard all the failed stories of traveling with someone in a wheelchair, so I went above and beyond to prepare for the trip. I called at least 3 times to verify my reservation, and each time they assured me that we were all set!” Nonetheless, the hotel failed to provide an accessible room and, as a result, Bella “[s]pent several hours trying to find another hotel, after a long day of travel” and “ended up with a hotel that was way out of [their] price range.”

lift me on the bed since all the beds were the same height.

Maya was vacationing with her husband during this incident, but she noted her husband is not always present for her travel. As a therapist who also travels for work, she shared that relying on others is a necessary but unwelcome element of her travel due to unexpected hotel inaccessibility.

I am now a licensed therapist so I travel often for conferences and almost every trip requires me [to] depend[] on someone for something lacking in the hotel.

Leisure travel is more costly and often far less leisurely for people with disabilities navigating unpredictable and often inaccessible environments. When hotels fail to provide information about accessibility offerings and fail to deliver on accessibility promises, they express and enact exclusion of disabled people⁸⁰ from the travel and tourism industry.

C. Family and Relationships Impact

Some respondents indicated that unanticipated travel inaccessibility hampered meaningful engagement in family and social activities. Of 212 responses, 76 respondents identified visits to family or friends, or important family events, as reasons or the only reason for their travel.

Kat

In 2018, Kat traveled to Gun Lake, Michigan, with her child for a funeral. Her child has cerebral palsy, epilepsy, deafness, cyclical vomiting, and other impairments. When making her reservation at a small hotel on Gun Lake, the hotel staff confirmed the rooms were accessible but were unable to answer questions about specific features.

⁸⁰ Another respondent, Matthew, stated simply, “I do not travel anymore.”

While preparing for travel to a funeral, Kat's time and energy were consumed by phone calls and emails attempting to secure a shower seat for her child.

My child is 12 years old and has cerebral palsy, epilepsy, deafness, cyclical vomiting, and more. [There were] very limited hotels in the area, so I called to make a specific request. It took at least 13 emails and 8–9 phone calls to ensure there would be a shower seat for my disabled child.

Ultimately, the hotel was able to provide the shower seat, but this experience made an already stressful situation far more burdensome.

We were there for my grandmother's funeral, so it was already stressful. We missed one gathering.

The impact here was both practical and emotional.

Jonathan

In 2018, Jonathan went to visit his brother, who was in rapidly declining health, in Abilene, Texas. Jonathan is hard of hearing and travels with a service animal to assist him. Jonathan was able to book an accessible room at a hotel in Abilene through the hotel rewards program's direct telephone number. When Jonathan arrived, hotel staff informed him they would not accommodate his service dog. As a result, Jonathan had to cancel his reservation and find a different hotel in the area that would comply with accessibility requirements.

When I checked in, I was told they would not accommodate my service dog. . . . I went to another local hotel.

Jonathan faced these added burdens during a trip that was surely challenging enough already, due to his brother's ill health. Other travelers had happier reasons to travel, though their travel experiences were far from happy.

Jane

Jane has an autoimmune disorder, transverse myelitis, that necessitates she use a wheelchair. She enjoys traveling numerous times a year to attend concerts. When she arrived at a 2019 concert in North Carolina, Jane was unable to find a hotel that had both accessible rooms and allowed pets. For this important family event, Jane was traveling with her two dogs. Jane navigated an inaccessible hotel stay that increased her reliance on others and resulted in degrading personal experiences.

I wasn't able to access the bathroom to shower for 2 days, I had to brush my teeth using a cup of water that my husband brought to me, I couldn't do my toileting independently, so my husband had to carry my feces to the bathroom and clean my butt for me while I laid in the bed. Completely humiliating and dehumanizing!

Determined to achieve redress for this incident, Jane filed a complaint with the DOJ.

I filed an ADA complaint with [the] hotel and with the DOJ. I received a letter from the DOJ saying my case would be resolved by their mediation program. After I agreed to the mediation program, I never heard back from anyone about a meeting.

In addition to threatening her autonomy and dignity, inaccessible bookings prevent Jane from fully engaging in the social experiences of her travel:

When I travel to concerts, I always plan to meet up with friends and other fans, but when I encounter issues with my hotel reservations, I usually have to cancel or delay those plans because of the additional time it takes me to get ready to go out and/or the extra time it takes for toileting without an accessible hotel room.

Carrie

In 2023, Carrie planned to travel to her family member's wedding in St. Louis, Missouri. When making her hotel booking, she was unable to acquire adequate accessibility information from the hotel website; the website did not mention any of the critical information she needed—such as bed height, lift availability, seating in roll-in showers—and did not indicate whether her accessible reservation would be guaranteed. When Carrie called the reservation number, the hotel employees warned they could not guarantee an accessible room would be available, even after she booked one:

I told them that was the law and they needed to guarantee, but they said they never do and I should call [the specific hotel location] directly. So I called and spoke to hotel manager that was managing the wedding block, [and] he said he could guarantee an accessible room.

With this guarantee, Carrie attempted to ascertain information on the specific accessibility features provided in an accessible room. She asked for photographs, descriptions, or measurements, none of which were provided by the hotel manager.

It was very close to the wedding date by then so I did not go because I would not have been able to stay if the bed was as high as it looked in the [online] pictures.

Hannah

In 2018, Hannah traveled to an inn on Tybee Island, Georgia, for her daughter's wedding. Hannah requires a lower bed frame to transfer from her wheelchair. She called motels in the area, but none offered accessible rooms, leaving her in a difficult bind:

I called all the motels listed and not a one offered an accessible bed height. . . . Unfortunately, none of the motels I called offered accessible rooms. The motels could not care less about my dilem[m]a. . . . My only

solution to the problem was to drive (instead of fly) so I could drag along a ramp so I could get into the bed.

Even with the ramp, Hannah struggled to transfer into the bed without assistance.

I did get the inaccessible room and it was a struggle to use it. I had to rely on other people to help me do things I would have normally been able to do myself.

Because of the unavailability of accessible hotel rooms, Hannah reported that she tends to avoid making trips:

The unavailability of accessible hotels/motel rooms is frustrating. I feel like an outsider. When hotels/motels decided to make all their beds so high off the ground they excluded me from freely being able to travel. Now I mostly just stay home, it's too hard.

Without reliable accessibility information and commitments to honor reservations for accessible rooms, individuals with disabilities are unable to fully participate—or can participate only with substantial hardship—in important family and other social gatherings. Absorbed by the arduous task of identifying an accessible hotel, individuals like Kat and her child missed out on an event associated with a family member's funeral. Skeptical of a hotel's ability to accommodate her accessibility needs, Hannah transported a ramp across country to attend her daughter's wedding. The stories in this Section dovetail with the kinds of impact described in the Section on work and leisure, such as David spending \$700 more than planned for his trip and Logan cancelling over half of their planned activities. These and other accounts show how pervasive ADA noncompliance by hotels ostracizes people with disabilities from family and social relationships, from leisure travel, and from professional opportunities.

III. Storytelling as a Tool for Combatting the Stigmatic and Dignitary Harm of ADA Noncompliance

The ADA is landmark disability rights legislation that has proven influential at the state, national, and international levels.⁸¹ Its affirmative rights model, requiring action rather than mere inaction on the part of covered entities, continues to distinguish the disability rights framework from traditional antidiscrimination models.⁸² Despite the statute's promise, the ADA relies for its enforcement largely on the labor of individuals with disabilities to bring suits against public accommodations under Title III.⁸³ Given systemic noncompliance with the ADA and the discrimination admin already borne by people with disabilities,⁸⁴ this expectation heavily taxes disabled people.

Disabled testers mitigate some of this widespread inaccessibility by working to improve the availability of accessibility information online for both themselves and others—and are often motivated to perform this labor because of their own experiences with inaccessibility.⁸⁵ This system-wide reform is critical for disabled

⁸¹ Arlene Mayerson & Silvia Yee, *The ADA and Models of Equality*, in *DISABILITY RIGHTS LAW AND POLICY: INTERNATIONAL AND NATIONAL PERSPECTIVES* 283, 284 (Mary Lou Bresfin & Silvia Yee, eds. 2002).

⁸² Cf. Robin L. West, *Tragic Rights: The Rights Critique in the Age of Obama*, 53 WM. & MARY L. REV. 713, 729 (2011) (framing the modern civil rights framework as predominated by a retreat from a failed state and legitimating the state's failure to provide a social safety net).

⁸³ See Harris & Tani, *supra* note 14.

⁸⁴ See *supra* note 34 (defining “discrimination admin”).

⁸⁵ See, e.g., Suggestion of Mootness app. At 1a, *Acheson Hotels, LLC v. Laufer*, No. 22-429 (U.S. filed July 24, 2023) (hereinafter Suggestion of Mootness). In the affidavit in the Appendix to the document, Ms. Laufer reports,

Once I needed a wheelchair to move around, I became extremely frustrated at how difficult it was to reserve an accessible room at a hotel when I would travel. I could not get information about accessible rooms, or I would book a room that claimed to be accessible, but it ended up not being accessible or available when I arrived. I sometimes ended up sleeping in my car because I could not get an accessible room at a hotel. I saw [bringing tester lawsuits] as an opportunity to help myself and other people with disabilities who want to visit their families and to travel. Serving as an ADA plaintiff helped get me out of my depression because it allowed me to help myself and other people.

people, but opponents resist any effort at systemic change by insisting Reservation Rule noncompliance causes no harm. Critically, testers' affirmative steps take place *before* disabled individuals need the service, rather than after—when funerals have been missed,⁸⁶ showers withheld,⁸⁷ and physical pain endured.⁸⁸ At that point, because the Rule's remedial scheme provides for injunctive relief but not damages,⁸⁹ the lawsuit comes too late.

Despite the critical role played by testers in enforcing the ADA and other civil rights statutes, Acheson Hotels and its amici minimize the harm of noncompliance with the Reservation Rule and demonize those who expose it. This Essay draws on the power of narrative to challenge these depictions.⁹⁰ This Part examines the stereotypes

Id. (To assist readers in finding these documents, we note that the Suggestion of Mootness appears on the Supreme Court Docket page for the *Acheson Hotels* case, <https://www.supremecourt.gov/docket/docketfiles/html/public/22-429.html> [<https://perma.cc/S42V-7RMM>], and Ms. Laufer's affidavit appears at an "other" tab in the same dated entry on that page, *id.*)

⁸⁶ See *supra* text accompanying notes 12–16. Seven responses indicated travel to a funeral was impacted by inaccessibility, and four missed part of the funeral itself due to inaccessible accommodations. One respondent, Chad, shared the following:

My wife's mother had just passed away and we were going to her funeral. My wife (my only caregiver) had to drive 6 hours (which she hates) in the most stressful situation, followed by unloading the baggage and medical supplies and carting them to the room. Once inside, I could not even get through the bathroom door to use the sink to clean up, brush my teeth, etc. much less dumping my urine bag into the toilet myself. Being unable to do the basic hygiene for myself by myself, it placed an extra burden on my wife when I should have been comforting her. We were late to the funeral service.

⁸⁷ See *supra* Section I.B (Dani); see also *supra* Section II.C (Jane).

⁸⁸ See, e.g., *supra* Section II.A (Rachel).

⁸⁹ See *supra* note 17 and accompanying text.

⁹⁰ On the power of narrative in social change in general, see, for example, Martha Nussbaum, *Narratives of Hierarchy: Loving v. Virginia and the Literary Imagination*, 17 QUINNIPIAC L. REV. 337 (1997); Samantha Wright & Annie Neimand, *The Secret to Better Storytelling for Social Change: Better Partnerships*, STAN. SOC. INNOVATION REV. (Nov. 9, 2018) ("[S]torytelling is one of the most powerful tools we have for activating people."). On the role of storytelling in disability justice work in particular, see generally, for example, DISABILITY VISIBILITY: FIRST PERSON STORIES FROM THE TWENTY-FIRST CENTURY (Alice Wong ed. 2020); Ezekiel W. Kimball, Adam Moore, Annemarie Vaccaro, Peter F. Troiano & Barbara M. Newman, *College Students With Disabilities Redefine Activism: Self-Advocacy, Storytelling, and Collective Action*, 9 J. OF DIVERSITY IN HIGHER EDUC.

applied to testers and others who challenge ADA inaccessibility and considers the risks and rewards of storytelling in countering those stereotypes.

A. Examining Acheson Hotels' Minimizing Language

Acheson Hotels and its amici minimize the harm caused by the uncertainty, inconvenience, and erasure associated with Reservation Rule noncompliance by hotels. Acheson Hotels and its supporters filed seven briefs in support of a petition for writ of certiorari,⁹¹ and there have been seven main briefs filed by Petitioner or supporting Petitioner on the merits.⁹² These parties depict “tester” plaintiffs as aggressive,

245, 252 (2016) (“[Participants’] activism included debunking stereotypes about disabilities and reducing stigma by educating through storytelling. Our participants raised awareness about disability topics and challenged misconceptions through stories about their disability.”); Elizabeth F. Emens, *Shape Stops Story*, 15 NARRATIVE 124, 130 (2007) (noting “the life-affirming potential of storytelling, its role in shaping disability identity, and its role in communicating that identity to the outside world”); Filippo Trevisan, *Crowd-Sourced Advocacy: Promoting Disability Rights Through Online Storytelling*, 6 PUB. RELS. INQUIRY 191, 203 (2017) (discussing “the practice of promoting disability rights through crowd-sourced story-centered advocacy campaigns”). A full discussion and list of the robust literature on the role of first-person narratives in disability scholarship and advocacy is beyond the scope of this article. We simply include a few examples here, but many more exist.

⁹¹ The amicus briefs filed on behalf of the Petitioner or in support of a petition for writ of certiorari include: Petitioner for Writ of Certiorari; Brief Amici Curiae Filed by Restaurant Law Center, American Hotel & Lodging Association, NFIB Small Business Legal Center, Rhode Island Hospitality Association, Puerto Rico Restaurant Association/Asociación De Restaurantes De Puerto Rico, New Hampshire Lodging & Restaurant Association, Massachusetts Restaurant Association, and HospitalityMaine; Brief Amicus Curiae on Behalf of DRI Center for Law and Public Policy; Brief Amici Curiae of Retail Litigation Center, Inc. and National Retail Federation; Brief of Amicus Curiae of Center for Constitutional Responsibility; Brief of Amici Curiae of Chamber of Commerce of the United States of America, American Resort Development Association, National Association of Home Builders of the United States, and International Council of Shopping Centers; and Reply Brief by Acheson Hotels in Support of Petition for Writ of Certiorari. See *Acheson Hotels, LLC v. Laufer*, No. 22-492 (U.S.). For easy access to amicus briefs, see *Acheson Hotels, LLC v. Laufer*, SCOTUSblog, <https://www.scotusblog.com/case-files/cases/50cheson-hotels-llc-v-laufer/> [<https://perma.cc/G9UC-3Z3T>] (hereinafter *Acheson Hotels*, SCOTUSblog).

⁹² The amicus briefs filed on behalf of the Petitioner or in support of Petitioner’s position on the merits include: Brief Amici Curiae of Retail Litigation Center, Inc.,

calculated, and self-interested actors, contributing to villainous characterizations of disabled people⁹³ and sowing distrust toward ADA litigation.⁹⁴ These characterizations develop what Doron Dorfman has termed the “prism” of the “disability con.”⁹⁵ Briefs by Petitioner and amici portray disabled people as manipulators and abusers of the system.⁹⁶ In fact, Deborah Laufer’s Suggestion of Mootness in the case before the Court illustrates this point. Laufer expresses concern that her attorney’s disciplinary infractions risk confirming and fueling negative perceptions of disability testers and their aims.⁹⁷ Disciplinary action against one lawyer takes on new meaning and heightened stakes for disabled litigants like Laufer, distracting from the intentions behind and promise of her legal claims.

and National Retail Federation; Brief of Amici Curiae of Chamber of Commerce of the United States of America, American Resort Development Association, American Bankers Association, and ICSC; Brief of Atlantic Legal Foundation & DRI Center for Law and Public Policy as Amici Curiae in Support of Petitioner; Brief Amici Curiae Filed by Restaurant Law Center, American Hotel & Lodging Association, NFIB Small Business Legal Center, Rhode Island Hospitality Association, Puerto Rico Restaurant Association/Asociación De Restaurantes De Puerto Rico, New Hampshire Lodging & Restaurant Association, Massachusetts Restaurant Association, And Hospitality Maine; Brief of Amicus Curiae Center for Constitutional Responsibility in Support of Petitioner; Brief of Amici Curiae The Buckeye Institute, Maine Policy Institute, Job Creators Network Foundation, National Real Estate Investors Association, and Ohio Hotel And Lodging Association in Support of Petitioner; and Brief of Amicus Curiae National Association of Home Builders of the United States in Support of Petitioner. *See Acheson Hotels*, No. 22-492 (U.S.); *see also Acheson Hotels*, SCOTUSblog, *supra* note 91.

⁹³ *See* Ruth Colker, *The Power of Insults*, 100 B.U. L. REV. 1, 51 (2020) (characterizing the “boilerplate” insults raised in litigation against disabled people and their attorneys).

⁹⁴ *See infra* Appendix C. In their briefs, Acheson Hotels and amici filing briefs on behalf of Acheson Hotels deploy numerous terms aimed at minimizing the harm experienced by disabled people and marginalizing disabled litigants. The briefs frequently use words like “abuse,” “target,” “extract,” “aggressive,” and “extort” to develop a negative characterization of testers. Appendix C documents the use of this terminology across briefs.

⁹⁵ Dorfman, *Disability Con*, *supra* note 26, at 2.

⁹⁶ *Id.* at 8.

⁹⁷ *See, e.g.*, Suggestion of Mootness, *supra* note 85, at 4 (“I do not want any allegations of misconduct committed by my attorney in Maryland to distract from these important issues.”)

Some briefs by and supporting Acheson Hotels also depict a zero-sum game between tester litigation and other ADA litigation, implying that a disabled individual's suit to prevent future harm distracts from remedying present harm.⁹⁸ This conception undervalues the systemic work testers can do to minimize the burden on disabled people by making it easier to navigate inaccessible businesses and lessening the need for disabled people to bring claims personally. Acheson Hotels and its amici also cast the harm caused by findings of inaccessibility and exclusion as amorphous, distant, and mere "hurt feelings."⁹⁹

Related to the stereotyping of tester litigants, Acheson Hotels and amici advance the narrative of an organized system of litigation aiming to usurp government authority and take advantage of the ADA. Numerous briefs refer to the development of a "cottage industry"¹⁰⁰ run

⁹⁸ See, e.g., *Acheson Hotels* Petition for Writ, *supra* note 19, at 27 (arguing that "ADA 'testers' exist in many forms. Laufer is not the only 'tester' who sues hotels over allegedly noncompliant reservation websites . . ." and that "[c]ourts have repeatedly and harshly criticized this litigation strategy. It clogs the courts . . . and diverts focus from the claims of plaintiffs who were actually harmed. . . ."); Brief for Retail Litigation Center, Inc. and National Retail Federation as Amici Curiae Supporting Petitioner 2, *Acheson Hotels, LLC v. Laufer*, No. 21-1410 (filed June 12, 2023 U.S.) (hereinafter Retail Litigation Center Merits Brief). ("As discussed below, serial ADA litigants have filed thousands of lawsuits not to improve accessibility for people with disabilities but to enrich themselves and their lawyers."); Brief for Chamber of Commerce, American Resort Development Association, National Association of Home Builders, and International Council of Shopping Centers as Amici Curiae Supporting Petitioner at 3–4, *Acheson Hotels*, No. 21-1410 (U.S. filed June 12, 2023) ("Such abusive litigation tactics subvert rather than advance the purposes of the ADA, and put the federal courts in the impossible position of adjudicating non-existent controversies.").

⁹⁹ See, e.g., *Acheson Hotels* Petition for Writ, *supra* note 19, at 27 ("But no common-law tradition suggests that Laufer faces concrete harm via her pledge to revisit Coast Village's website in order to manufacture standing for an injunction."); Brief for DRI Center for Law and Public Policy as Amicus Curiae Supporting Petitioner 23, *Acheson Hotels*, No. 21-1410 (U.S. filed Dec. 8, 2022) (in support of petition for certiorari) ("Under the court's holding, millions of disabled Americans will have standing to sue for ADA-based informational injuries even if they do not need and cannot use the information, and even if their claimed harm is hurt feelings.").

¹⁰⁰ *Acheson Hotels* Petition for Writ, *supra* note 19, at 5 ("A cottage industry has arisen in which uninjured plaintiffs lob ADA lawsuits of questionable merit, while using the threat of attorney's fees to extract settlement payments.").

by “serial litigants.”¹⁰¹ Some refer to this litigation as wasteful¹⁰² and as straining judicial economy.¹⁰³ This narrative of systematic, industrialized litigation distracts from systemic underenforcement of and noncompliance with the ADA.¹⁰⁴ These representations also neglect the fact that “under the current remedial scheme serial litigation may be the only cost-effective way for private counsel to bring suit.”¹⁰⁵ Acheson Hotels and its amici, in their criticism of tester litigants, ignore a system deliberately designed by Congress to deputize disabled individuals as its enforcers.

Acheson Hotels and its supporters are not the first to apply these stereotypes to disabled litigants seeking system-level reform. The media has also driven representation of tester plaintiffs as greedy and self-interested.¹⁰⁶ Some scholars argue that this public discourse places accessibility efforts on “unstable ground,” casting lawyers and

¹⁰¹ Retail Litigation Center Merits Brief, *supra* note 98, at 21 (“But the decision below deepens a circuit split that undermines the ADA’s promise for individuals with disabilities by enabling serial plaintiffs to file abusive litigation threatening well-meaning businesses—and potentially public entities as well. As discussed below, serial ADA litigants have filed thousands of lawsuits not to improve accessibility for people with disabilities but to enrich themselves and their lawyers. The consequence is less accessibility, not more.”).

¹⁰² Brief for Restaurant Law Center, American Hotel & Lodging Association, NFIB Small Business Legal Center, Rhode Island Hospitality Association, Puerto Rico Restaurant Association, New Hampshire Lodging & Restaurant Association, Massachusetts Restaurant Association, and HospitalityMaine as Amici Curiae Supporting Petitioner 3, *Acheson Hotels*, No. 21-1410 (U.S. filed June 12, 2023).

¹⁰³ *Id.* at 5. (“In either scenario a defendant will not have to overcrowd district court dockets and expend precious resources by filing dispositive motions on this issue. Indeed, this Court resolving this issue at this point in time will certainly lead to judicial efficiency.”).

¹⁰⁴ See RUTH COLKER, *THE DISABILITY PENDULUM* 181 (2005) (observing only 25 ADA Title III cases had published appellate decisions by July 1998); 12. Michael Waterstone, *The Untold Story of the Rest of the Americans with Disabilities Act*, 58 VAND. L. REV. 1807, 1853-59 (2005) (combining data on appellate Title III decisions, survey data, and social science research on exclusion of disabled people from Title III entities to conclude there is under-enforcement of Title III of the ADA).

¹⁰⁵ Bagenstos, “Abusive” ADA Litigation, *supra* note 14, at 15.

¹⁰⁶ See, e.g., Lauren Markham, *The Man Who Filed More Than 180 Disability Lawsuits: Is It Profiteering—or Justice?*, N.Y. TIMES (Jul. 21, 2021), <https://www.nytimes.com/2021/07/21/magazine/americans-with-disabilities-act.html> [https://perma.cc/8G2U-95K8]; *What’s a Drive-By Lawsuit?*, CBS NEWS: 60 MINUTES (Dec. 4, 2016), <https://www.cbsnews.com/news/60-minutes-americans-with-disabilities-act-lawsuits-anderson-cooper/> [https://perma.cc/6SB8-S2QW].

plaintiffs in tester litigation as counterproductive to disability justice.¹⁰⁷ These depictions of disabled people threaten to undermine a disabled individual's sense of belonging, shrinking "the horizon of possibility" for disabled people.¹⁰⁸ Reinforcing narratives that denigrate disabled litigants will proliferate stereotypes of fraudulent disability claims and abuse of the ADA; it will undermine enforcement of—and therefore compliance with—disability rights law.

B. Combatting Stigma with the Voices of People with Disabilities

This Essay challenges the narrative advanced by hotel owners and operators in ADA Title III cases (here amplified by the briefing of Acheson Hotels and its amici) and offers a more accurate depiction of the harms in *Acheson Hotels* and other Title III cases: Hotels' disregard for the ADA physically injures, renders insecure, ostracizes, and humiliates disabled people. Documenting the stories of the individuals affected by these harms is one way to begin dismantling the myths and stereotypes that obstruct efforts at systemic disability rights reform. In their survey responses, disabled travelers reported experiencing numerous concrete harms.

1. The "Disability Tax"¹⁰⁹ and Discrimination Admin¹¹⁰

The stories of travelers with disabilities attempting to secure accessible reservations reveal that excessive time, energy, and money are expended to secure accessibility at hotels. When reliable accessibility information remains hard to come by, people with disabilities face financial injury. Some individuals who responded to

¹⁰⁷ See Doron Dorfman & Mariel Yabo, *The Professionalization of Urban Disability*, 47 FORD. URB. L.J. 1214, 1242 (2020); Bagenstos, "Abusive" ADA Litigation, *supra* note 14, at 6.

¹⁰⁸ GEOFFREY L. COHEN, BELONGING: THE SCIENCE OF CREATING CONNECTION AND BRIDGING DIVIDES 27 (2022).

¹⁰⁹ See Jasmine E. Harris, *Taking Disability Public*, 169 U. PA. L. REV. 1681, 1735 (2021) (hereinafter Harris, *Taking Disability Public*) ("People with disabilities experience a 'disability tax,' the extra costs of daily living, such as additional medical expenses, personal assistance, retrofitting spaces for accessibility, food, clothing, or other personal care items.").

¹¹⁰ See *supra* note 34 (defining "discrimination admin").

this survey spent more money to rent other accessible hotel rooms.¹¹¹ Others supplied their own accessibility aids, such as ramps,¹¹² or employed home health attendants,¹¹³ to facilitate staying in a space unaccommodating of their needs. Noncompliant hotels, rather than providing accurate information about their accessibility offerings, shift the costs of ADA noncompliance onto disabled customers. Hotel inaccessibility is just one of many elements constructing what has been called the *disability tax*¹¹⁴—the added everyday financial burden assumed by people with disabilities to live in an inaccessible world.

Travelers are also required to spend a great deal of time searching for accessibility information, confronting inaccessibility, and seeking redress. What Acheson Hotels characterized as a mere “two-minute phone call”¹¹⁵ is typically far from a speedy endeavor that easily resolves ambiguity about accessibility; many travelers make numerous phone calls prior to their stay,¹¹⁶ only to be denied the accessible rooms they were promised. In light of research on the gendered dimensions of

¹¹¹ See, e.g., *supra* Section II.B (David) (“I ended up having to split my vacation between two hotels and spending almost \$700 more than I’d planned on it.”).

¹¹² See, e.g., *supra* Section II.C (Hannah) (“My only solution to the problem was to drive (instead of fly) so I could drag along a ramp so I could get into the bed.”).

¹¹³ See, e.g., *supra* Section I.A (Lia) (“Had to use bathroom at a local friend’s home, had to hire attendant to sleep in hotel with me since couldn’t independently access bed.”).

¹¹⁴ Harris, *Taking Disability Public*, *supra* note 109, at 1735.

¹¹⁵ *Acheson Hotels* Petition for Writ, *supra* note 19, at 6.

¹¹⁶ See, e.g., *supra* Section I.B (Dani) (“I reminded them I had called a few times in the weeks leading up to that date.”); Section I.B (Jean) (“When I travel, I typically spend hours researching hotels, making reservations, and confirming to ensure that I will have an accessible place to stay that has the features it claims.”); Section II.C (Kat) (“It took at least 13 emails and 8–9 phone calls to ensure there would be a shower seat for my disabled child.”).

admin,¹¹⁷ these burdens likely fall more heavily on women,¹¹⁸ and particularly women of color in some circumstances.¹¹⁹

In addition to losing time imploring hotel staff to deliver access, disabled travelers must also request refunds and make formal

¹¹⁷ See, e.g., Elizabeth F. Emens, *Admin*, 103 GEO. L.J. 1409, 1432–38 (citing research finding gender disparities in the division of admin work); ELIZABETH EMENS, LIFE ADMIN 45–54 (2019) (citing sources); see also Allison Daminger, *The Cognitive Dimension of Household Labor*, 84 AM. SOCIO. REV. 609 (finding women in a household do more “cognitive labor” in the sense of “anticipating needs, identifying options for filling them, making decisions, and monitoring progress”); Helen J. Mederer, *Division of Labor in Two-Earner Homes: Task Accomplishment Versus Household Management as Critical Variables in Perceptions About Family Work*, 55 J. MARRIAGE & FAM. 133, 135 (1993) (showing women as disproportionately burdened by household management, a subset of life admin). Cf., e.g., Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 U. KAN. L. REV. 775, 783, 785 (2001) (discussing how female faculty at institutions like law schools shoulder the burden of “housework” chores administratively).

¹¹⁸ The survey did not ask about gender, see *infra* Appendix A (reporting the survey questions), so no generalizations are possible. But multiple stories presented mothers and wives engaging in extensive admin and direct caregiving, in connection with apparent violations of the Reservation Rule. For instance, *supra* Section II.C (Kat’s story); *supra* Section I.C (Judy’s story); *supra* notes 15, 79 (Bella’s story). One particularly striking account came from Chad, who described his wife’s extensive laboring to bring supplies and otherwise assist him, making her late to her own mother’s funeral, because the hotel failed to honor their obligation and commitment to provide an accessible room. See *supra* note 86 (lamenting that all this labor “placed an extra burden on my wife when I should have been comforting her”).

¹¹⁹ The survey also did not ask about race, see *infra* Appendix A (reporting the survey questions), and survey respondents did not mention race, but it is worth noting that admin and other forms of caregiving have important intersections with race as well as gender. See, e.g., EMENS, LIFE ADMIN, *supra* note 117, at 69 (“Research suggests that women do more care-work for aging family members than men and that intergenerational care is more common in ethnic minority families than in white families in the United States.” (citing sources)); *id.* at 236 n.4; (citing National Alliance for Caregiving a AARP, “Caregivers of Older Adults: A Focused Look at Those Caring for Someone Age 50+” (June 2015): 1, 8, 23, 24, <https://www.aarp.org/content/dam/aarp/ppi/2015/caregivers-of-older-adults-focused-look.pdf> [<https://perma.cc/52F9-UU45>] (reporting on greater elder caregiving generally in Asian-American, Hispanic, and African-American communities and also specifically reporting that “Asian-Americans caregivers are more likely . . . than all other caregivers of other race/ethnicities to communicate with health care professionals on behalf of their care recipient”).

complaints.¹²⁰ Even the respondents filling out the survey featured in this Essay engaged in additional discrimination admin¹²¹ to bring their stories to light. On top of these efforts, the ADA expects disabled travelers to bring individual suits to correct individual wrongs. As one traveler, Jean, pointed out, “[T]he only recourse was to contact the hotel chain and hope they would offer some sort of apology or compensation. But, that doesn’t help to change the system.” As Jean showcases, one-time changes and acknowledgement by individual hotels do little to address system-wide violations plaguing travel for people with disabilities.¹²²

Opponents of tester litigation ignore the financial and temporal injuries presented by a lack of information about accessible rooms, as well as the absence of online booking, of guarantees of accessible rooms, and of follow-through on promised rooms. These injuries include exclusion of people with disabilities from meaningful engagement (or, in some instances, any engagement at all) in travel, as well as the dignitary harms imposed on testers and travelers alike.¹²³

2. Physical Harm and Compromised Security

In addition to loss of time and money, disabled travelers endure physical injuries—or substantial physical risks—due to hotels’ widespread Reservation Rule noncompliance.

For some travelers with “unhealthy disabilities”¹²⁴ in this survey, the process of pleading for accessibility and adapting to an inaccessible environment inflamed disability-related symptoms.¹²⁵

¹²⁰ See, e.g., *supra* Section II.B (Logan) (“I spent more than 30 hours seeking [a] resolution to an inaccessible experience at the hotel and seeking a refund as well as getting in contact with the VP of [the hotel’s] accessibility experiences to talk about what happened to me.”).

¹²¹ Emens, *Disability Admin*, *supra* note 18, at 2350–51 (“But much more commonly, discrimination admin is the work of deciding when, whether, and how to speak up to challenge discriminatory treatment or words.”).

¹²² See *supra* Section I.B (Jean).

¹²³ See *supra* text accompanying notes 22, 23.

¹²⁴ Susan Wendell, *Unhealthy Disabled: Treating Chronic Illnesses as Disabilities*, HYPATIA, Autumn 2001, at 17, 19 (classifying individuals with chronic illnesses as unhealthy disabled to facilitate their inclusion into the disability rights movement).

¹²⁵ See, e.g., *supra* Section I.A (Gabbie) (“We were exhausted and both my husband and my medical conditions were acting up (we are both disabled). The hour we spent arguing with hotel staff meant we did not have the energy to go get food.”); Section

Other travelers experienced physical pain because they had to perform arduous tasks to navigate their rooms,¹²⁶ such as crawling into bathrooms.¹²⁷

Hotel inaccessibility also compromised the safety of some travelers. Renee was forgotten during an emergency evacuation,¹²⁸ and Alex stayed in hotels knowing that she would be unable to hear or see a fire alarm situated outside of her room.¹²⁹

People with disabilities at times must risk their physical security in order to engage in travel. Unable to ascertain accessibility information and reliably book accessible lodging prior to their stay, some must choose between a risk of physical injury and costly departure from important professional, social, and family events.

3. Diminished Privacy and Autonomy

Travelers adapting to unexpectedly inaccessible hotel stays also expressed needing to sacrifice privacy, dignity, and autonomy. Unable to shower for three days,¹³⁰ forced to shower outside and exposed in the hotel's pool area,¹³¹ and reliant on other people for basic tasks they ordinarily perform autonomously,¹³² disabled individuals faced dignitary sacrifices in order to travel. As evidenced by this

II.B (Logan) (“I had significantly less energy and ultimately had to cancel 50% of why we traveled.”).

¹²⁶ Many respondents indicated they had difficulty obtaining information about bed height. Seven respondents specifically mentioned an accessibility need for bed height and all seven noted this information was not available after initial investigation. For some respondents, this presented a safety issue. As Mia indicated, “A new issue that I’m having in hotels is the bed height... Often it is too high to safely transfer.” Another respondent, Teo, noted, “Too tall bed height is a safety hazard for falls and injury.”

¹²⁷ See, e.g., *supra* Section II.A (Rachel) (“[I] had to crawl into the bathroom, which was painful.”).

¹²⁸ See, e.g., *supra* Section II.A (Renee) (“My room was accessible. Their response with an emergency was not.”).

¹²⁹ See, e.g., *supra* Section I.B (Alex) (“Older hotels/motels often have fire alarms in the hallways, which doesn’t help me in my room when I am sleeping.”).

¹³⁰ See, e.g., *supra* Section I.B (Dani) (“I ended up staying and not showering for three days . . .”).

¹³¹ See, e.g., *supra* Section I.B (Dani) (“I ended up going out to the pool in the winter and having my husband drape a big towel to cover me so I could shower outside.”).

¹³² See, e.g., *supra* Section II.C (Hannah) (“I had to rely on other people to help me do things I would have normally been able to do myself.”).

survey, people with disabilities, unable to quickly access reliable accessibility information, must repeatedly explain their disability and its manifestations (emphasizing impairments and incapacity¹³³), compromise their privacy, and expose themselves to painful interactions with hotel staff.¹³⁴

4. Isolation and Ostracism of Disabled People

Hotels contribute to the ostracism¹³⁵ of disabled people by making travelers vulnerable to humiliation and rejection. Failure to supply ADA accessibility information in compliance with the Reservation Rule and failure to deliver accessibility offerings when promised are forms of rejection and render invisible disabled people and their cultural contributions to the traveling community.¹³⁶ This is one reason why it matters if a hotel's website provides accurate information about accessibility—and even about *inaccessibility*. If this information isn't available online, disabled travelers must expose themselves to phone calls and other interpersonal interactions that make them vulnerable to the rejection and negative attitudes of hotel staff.¹³⁷

The stories of travelers with disabilities also indicate how Reservation Rule noncompliance drives the isolation and exclusion of people with disabilities. Some survey participants reported refraining from travel because of prior inaccessible experiences,¹³⁸ and others

¹³³ The burdens of disabled people's repeatedly having to articulate incapacity, in order to exercise rights or otherwise navigate an inaccessible world, have been the subject of important discussions elsewhere. See, e.g., Samuel R. Bagenstos & Margo Schlanger, *Hedonic Damages, Hedonic Adaptation, and Disability*, 60 VAN. L. REV. 745, 778 (2007) (discussing the tendency of certain disability rights cases to "endorse and instantiate a view of disability as personal tragedy").

¹³⁴ See *supra* text accompanying notes 71–74; see also *supra* text accompanying note 45 (quoting a survey respondent who was treated badly by staff for making an accessibility request).

¹³⁵ Lisa Zadro, *Ostracism: Empirical Studies Inspired by Real-World Experiences of Silence and Exclusion* (Jan. 2004) (Ph.D. dissertation, University of New South Wales) (describing ostracism as being excluded or ignored with effects on belonging, control, self-esteem, and meaningful existence).

¹³⁶ Cf., e.g., COHEN, *supra* note 108, at 27.

¹³⁷ *Id.*

¹³⁸ See, e.g., *supra* Section II.C (Hannah) ("Now I mostly just stay home, it's too hard.").

expressed fear that inaccessibility would make it harder to maintain important relationships.¹³⁹ Some individuals with disabilities said they choose not to travel¹⁴⁰ or choose to bypass important events¹⁴¹ because of the difficulty of finding reliable accessibility information.

In the words of one respondent, describing the repeated denial of accessibility information and offerings, “I feel like an outsider.”¹⁴² The hotel industry’s generalized disregard for the needs of people with disabilities—and Acheson Hotels’ erasure of this disregard in briefs¹⁴³—only further stigmatize people with disabilities.

The exclusionary signal of concealing accessibility information also causes dignitary harm. The apathy toward disabled people’s most basic needs and rights imposes many costs: physical, monetary, and dignitary. Opponents of tester litigation seek to erase this harm. One key form of redress is for disability advocates to make these harms visible.

C. Acknowledging the Risks and Rewards of Storytelling

This Essay documents the suffering that noncompliant hotels inflict on disabled travelers and prospective travelers. Documenting these stories presents the unique challenge of at once countering forces that belittle harm experienced by disabled people and at the same time avoiding reinscribing disabled individuals into a landscape of suffering. The goal of this empirical analysis is not to further expose or

¹³⁹ See, e.g., *supra* Section I.C (Sheila) (“I don’t want to be unable to see friends and family across the US because I’m treated like I just don’t matter by hotel staffing.”).

¹⁴⁰ See, e.g., *supra* Section I.B (Selena) (“I chose not to attend the conference, so I missed it... I am going to call the person in charge of the event.”).

¹⁴¹ One respondent, Eliza, indicated she traveled to an event with friends, where they had booked a room overlooking a Christmas parade. She noted she generally is very resilient when it comes to inaccessibility: “Despite my handicap, I have traveled many places most paraplegics wouldn’t go. I have a happy positive attitude that helps me overcome many issues.” She reserved this hotel knowing there would likely be no accessible bathroom, but she decided to compromise this feature for the promise of seeing the parade. When Eliza arrived with her friends, they discovered there was no elevator, and she would be unable to get to the room and see the parade. See *supra* Section II.C (Kat) (“We were there for my grandmother’s funeral, so it was already stressful. We missed one gathering.”).

¹⁴² See, e.g., *supra* Section II.C (Hannah).

¹⁴³ See *supra* Section III.A (discussing the trivializing of Reservation Rule violations in the briefs filed by Acheson Hotels and its amici).

stereotype disabled people.¹⁴⁴ Rather, this work seeks to document the lived reality of traveling with a disability—a frequently disregarded archive—in order to spotlight inaccessibility. The Essay deploys disabled travelers’ stories to fight the erasure and absence presented by hotels’ failure to supply accessibility information.

Susan Wendell, whose work also considers the intersection of disability empowerment and socially imposed and physically imposed suffering, emphasizes the following:

“Otherness” is maintained by culture but also limits culture profoundly. Canadian and United States culture rarely include people with disabilities in their depictions of ordinary daily life, and they exclude the struggles, thoughts, and feelings of people with disabilities from any shared cultural understanding of the human experience. This tends to make people with disabilities feel invisible (except when they are made hypervisible in their symbolic roles as heroes or tragic victims), and it deprives the non-disabled of the knowledge and perspectives that people with disabilities could contribute¹⁴⁵

The challenges and costs confronted by disabled travelers offer one such perspective, which, when foregrounded, can contribute to shared cultural understanding. These stories render visible the instructive struggles, thoughts, and feelings of people with disabilities, fueling much needed advocacy for system-wide reform.

¹⁴⁴ Cf., e.g., DAVID T. MITCHELL & SHARON L. SNYDER, *NARRATIVE PROSTHESIS* 6, 16 (2000) (arguing that narratives dwelling on suffering and stigmatizing disabled people form a “discursive subjugation” aimed at “bring[ing] the body’s unruliness under control.”); ROBERT MCRUER, *CRIP TIMES: DISABILITY, GLOBALIZATION, AND RESISTANCE* 54-91 (describing how representations of disabled people tend to spectacularize life with a disability and emphasize narratives of suffering and overcoming); Emens, *Shape Stops Story*, *supra* note 90, at 129–31 (discussing resistance to problematic demands for storytelling in the context of disability, inter alia, and “the overlooked moment when identity shapes itself by resisting the demand to tell stories”).

¹⁴⁵ SUSAN WENDELL, *THE REJECTED BODY: FEMINIST PHILOSOPHICAL REFLECTIONS ON DISABILITY* 65 (1996).

CONCLUSION

Widespread neglect for the ADA signals that a cultural shift is overdue. Hotels neglect individuals with disabilities by failing to provide reliable accessibility information.¹⁴⁶ Even when they provide ostensible accessibility information, it seldom meets the needs of disabled travelers. And beyond the lack of information, hotels fail to comply with other core requirements of the Reservation Rule—including the obligation to guarantee accessible room reservations and to follow through on those guarantees.¹⁴⁷ At present, traveling with a disability is marked by exclusion, belonging uncertainty, and ostracism.

When Cady, a traveler with severe spinal arthritis and chronic migraines was unable to shower during her stay, hotel staff made Cady feel humiliated for requesting accommodations. She shared,

[T]hey did not have features in [the] entire hotel and acted like I was crazy to ask . . . [T]hey acted like I was being an e[n]titled jerk for asking for accom[m]odations.¹⁴⁸

Travelers with disabilities are often left to question whether a hotel is accessible, and are thereby erased from the hotel's signals to welcomed patrons. On top of this, hotel staff scrutinize some disabled individuals for their attempts to clarify, compounding the harm associated with the hotel's initial failure.¹⁴⁹

Testers are a critical part of absorbing some of this harm. They confront neglect that presents a dignitary injury to the disabled individuals marginalized by a hotel's signal of exclusion. While the absence or presence of accessibility information may be insignificant to a nondisabled person, this information is practically and emotionally meaningful to a disabled person. When the experiences compound repeatedly, as they do for tester plaintiffs, institutional exclusionary

¹⁴⁶ See Laufer Merits Brief, *supra* note 104, at 45 (noting that, because damages are not available under the ADA, many hotels follow a “wait and see” approach”).

¹⁴⁷ See *supra* Section I.B (Erica).

¹⁴⁸ See *supra* note 38.

¹⁴⁹ See *supra* Section II.B (Logan).

signals become amplified. Often motivated by their own prior experiences of exclusion, tester plaintiffs absorb a concrete and personal injury grounded in neglect for the types of disability inclusion the Reservation Rule demands. Inspired to redress this injury, testers pursue structural changes through the very litigation the ADA relies on. Without testers' contributions to structural change and their choice to resist the harm of chronic exclusion, the horrors already experienced by disabled travelers will persist and may even increase.

The stories of disabled travelers, commonly erased or ignored, have the power to introduce new possibilities. This Essay centers hotels' disregard for the legal demands of the Reservation Rule's provisions, and the impact of this dismissal on the lives of disabled travelers. In so doing, the Essay invites the deliberate foregrounding of disabled stories to demonstrate the law's failure thus far to remedy the harms of exclusion in the more than three decades since Congress passed the ADA. Injuries experienced by disabled people—so often ignored, disbelieved, and undocumented—must be granted system-wide recognition and redress, even and especially when the law falls short.

Appendix A: Survey Questions

The Survey, designed and administered by individuals from the entities named above,¹⁵⁰ asked respondents the following questions:

1. *Name of hotel.*
2. *Location of hotel.*
3. *Year in which you stayed or attempted to make reservations at the hotel or motel.*
4. *What was the reason for the trip?*
5. *What accessibility features were you looking for?*
6. *How did you initially try to get information to reserve a room with accessibility features?*
7. *Did you get the information you needed to make a reservation on your first try?*
8. *If you did not get the information you needed on your first try, what was missing?*
9. *Were you able to reserve a room with the accessibility features you needed?*
10. *If you were not able to reserve a room with the accessibility features you needed, what did you do next?*
11. *Did you ultimately attempt to stay at this hotel?*
12. *When you arrived, was the room you reserved available?*
13. *If the room you reserved was not available, what did you do next?*
14. *If the room you reserved was available, did it have the accessibility features you were promised during the reservation process?*
15. *Describe any consequences of the hotel's failure to comply with hotel reservation requirements.*
16. *What else would you like us to know about your experience reserving a hotel room for this trip?*
17. *Approximately how many times do you stay in hotels each year?*

¹⁵⁰ See *supra* note 35.

Appendix B: Key Survey Response Tallies

Information	Responses
Total Survey Responses	212
Gaining Information Needed on First Try	
Answered a version of “Yes” to “Did you get the information you needed to make a reservation on your first try?”	96
Answered a version of “No” to “Did you get the information you needed to make a reservation on your first try?”	89
Did not specify, or provided ambiguous answer to “Did you get the information you needed to make a reservation on your first try?”	27
Ability to Reserve a room with Accessibility Features	
Answered “Yes” to “Did you get the information you needed to make a reservation on your first try?” AND Answered “Yes” to “Were you able to reserve a room with the accessibility features you needed?”	77
Answered “Yes” to “Did you get the information you needed to make a reservation on your first try?” AND Answered “No” to “Were you able to reserve a room with the accessibility features you needed?”	19
Answered “No” to “Did you get the information you needed to make a reservation on your first try?” AND Answered “No” to “Were you able to reserve a room with the accessibility features you needed?”	68
Answered “Yes” to “Did you get the information you needed to make a reservation on your first try?” AND Answered “Yes” to “Were you able to reserve a room with the accessibility features you needed?” AND Answered “No” to “If the room you reserved was available, did it have the accessibility features you were promised during the reservation process?”	36
Reasons for Travel	

Identified visits to family or friends, or important family events, as the reason or one of the reasons for their travel when they sought out an accessible reservation	76
Identified “Vacation” as the reason or one of the reasons for their travel when they sought out an accessible reservation	75
Indicated “Work Travel” as the reason or one of the reasons for their travel when they sought out an accessible reservation	41
Reported being impacted by inaccessibility during travel to funeral	7
Reported missing a funeral	4

Appendix C: Information on Terms Used in Acheson Hotels and Amici Briefs

The chart below details the different occurrences of specific negative terms attached to representations of disabled litigants. The first author developed the chart by reviewing and analyzing briefs written by Petitioner Acheson Hotels and by amici supporting Petitioner. Briefs were separated into amici briefs, published in December 2022, and merits briefs, published in June 2023, to analyze any change over time between representations of disabled litigants. There were seven briefs filed by the Petitioner or on behalf of the Petitioner in support of a petition for writ of certiorari.¹⁵¹ There have been seven merits briefs filed by Petitioner or supporting Petitioner on the merits.¹⁵² Briefs were reviewed for specific terms, used in the context of describing tester litigants, the ADA, or Deborah Laufer.

¹⁵¹ The amicus briefs filed on behalf of the Petitioner or in support of a petition for writ of certiorari include: Petitioner for Writ of Certiorari; Brief Amici Curiae Filed by Restaurant Law Center, American Hotel & Lodging Association, NFIB Small Business Legal Center, Rhode Island Hospitality Association, Puerto Rico Restaurant Association/Asociación De Restaurantes De Puerto Rico, New Hampshire Lodging & Restaurant Association, Massachusetts Restaurant Association, And HospitalityMaine; Brief Amicus Curiae on Behalf of DRI Center for Law and Public Policy; Brief Amici Curiae of Retail Litigation Center, Inc. and National Retail Federation; Brief of Amicus Curiae of Center for Constitutional Responsibility; Brief of Amici Curiae of Chamber of Commerce of the United States of America, American Resort Development Association, National Association of Home Builders of the United States, and International Council of Shopping Centers; and Reply Brief by Acheson Hotels in Support of Petition for Writ of Certiorari. *See supra* note 91.

¹⁵² The amicus briefs filed on behalf of the Petitioner or in support of Petitioner's position on the merits include: Brief Amici Curiae of Retail Litigation Center, Inc., and National Retail Federation; Brief of Amici Curiae of Chamber of Commerce of the United States of America, American Resort Development Association, American Bankers Association, and ICSC; Brief of Atlantic Legal Foundation & DRI Center for Law and Public Policy as Amici Curiae in Support of Petitioner; Brief Amici Curiae Filed by Restaurant Law Center, American Hotel & Lodging Association, NFIB Small Business Legal Center, Rhode Island Hospitality Association, Puerto Rico Restaurant Association/Asociación De Restaurantes De Puerto Rico, New Hampshire Lodging & Restaurant Association, Massachusetts Restaurant Association, And Hospitality Maine; Brief of Amicus Curiae Center for Constitutional Responsibility in Support of Petitioner; Brief of Amici Curiae The Buckeye Institute, Maine Policy Institute, Job Creators Network Foundation, National Real Estate Investors Association, and Ohio Hotel And Lodging

These terms, organized by prevalence, demonstrate the harmful and stigmatic representations this Essay aims to combat.

Word Combination	Occurrence in Petitioner Amici Briefs (7 Briefs Filed)	Occurrence in Petitioner Main Briefs (7 Briefs Filed)	Occurrence in All Petitioner Briefs
Abuse (+ abuse, abused, abusive)	26	35	61
Target (+ targeting, targeted)	22	20	42
Meritless (+ no merit, questionable merit, lacking merit, less than meritorious, and similar)	14	22	36
Cash	10	12	22
Bad-faith (+ not good faith)	9	8	17
Aggressive (+ aggressive, aggressively)	6	8	14
Extract (+ extracted)	8	5	13
Clog (courts; dockets)	7	5	12
Hunt (+ hunted, hunting)	6	4	10
Frivolous + Unfounded	3	7	10
Personal gain (+ financial gain)	5	5	10

Association in Support of Petitioner; and Brief of Amicus Curiae National Association of Home Builders of the United States in Support of Petitioner. *See supra* note 92.

Exploit	4	5	9
Burden/burdensome (on courts, businesses)	3	6	9
Bounty hunter	4	3	7
Cottage industry	4	3	7
Extort	4	3	7
Shakedown	2	2	4
Trolling	1	1	2