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Client Alert: Online Hotel Reservation Systems Under Attack for Alleged ADA Violations

A new flavor of litigation has arisen under the Americans with Disabilities Act (ADA) and its regulations, specifically those regulations pertaining to descriptions of the accessibility features of hotel rooms. As we have previously written, over the last several years, ADA litigation regarding claims for internet-based practices has primarily centered on the accessibility features of the websites themselves. However, numerous recent claims have arisen based on an alleged lack of online specificity concerning hotels' physical accessibility features.

The DOJ previously promulgated regulations regarding descriptions of accessibility features, which state that a place of lodging must "[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." 28 CFR §36.302(e)(1) *et seq.* However, there is no guidance as to the specificity required with the exception of a Consent Decree entered two months after the amended regulations were promulgated. In it, the hotel chain subject to the Consent Decree was required to include current information about the accessibility features available in guest rooms throughout the chain, including information regarding the configuration of the rooms,

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the accessibility amenities in available rooms, and the views available.

Though the DOJ has brought only that solitary action concerning accessibility descriptions, the number of lawsuits alleging such insufficiencies has ballooned. In the last several months of 2018, dozens of suits alleging that hotel and resort websites were violative of the ADA regulations have been filed. California, Florida, and New York are primary states where this activity has been observed. In all cases, the allegations are similar (as are some of the plaintiffs). The plaintiffs allege that the accused hotels do not go far enough in describing the features of each of the rooms, despite often failing to put forth allegations that specify what they believe is required under the ADA.

There is no language to inoculate a hospitality provider from suits alleging a lack of specificity in their descriptions of accessibility features, nor are there regulations or guidance to identify what the descriptions must include. Hospitality industry participants may consider adding a page on their website, with a clear and conspicuous link on the home page, noting the accessibility specifications of their venue, such as the locations of wheelchair ramps, automatic doors, and any wheelchair accessible reception desk.

For guest rooms, hospitality providers may consider providing floor plans of the accessible rooms with approximate measurements and may consider listing out the accessibility equipment, such as visual alarms, doorbells, door levers instead of knobs, drapery wands, slip-resistant bathroom floors, hand-held shower wands, and any other accessibility features specified. Proactivity and diligence are the only prophylactics available to help reduce the risk of these types of accessibility actions, but there is no panacea at this time.



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To avoid getting caught in the wave of these suits, we encourage any hospitality industry participant operating a website that offers an online reservations system to provide as much information as is feasible.

This alert was authored by Lee J. Eulgen and Meredith Mays Espino. If you have any questions related to this article or would like additional information, please reach out to your contact in the Intellectual Property group, or the authors.