Blogs
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On March 27, 2023, the U.S. Supreme Court granted certiorari in a case concerning a plaintiff's standing to bring an Americans with Disabilities Act (ADA) suit against a hotel where the plaintiff lacked any intention of ever visiting the hotel.

This case could have major implications for the continued viability of "tester" standing in ADA cases and therefore greatly affect the number of ADA claims brought every year against hotels and other businesses offering goods and services to the public.

The plaintiff, Deborah Laufer, is a disabled Florida resident who is a self-identified advocate for those living with disabilities. As part of her advocacy efforts, Laufer regularly tests the online reservation systems for hotels

to determine whether they comply with applicable ADA regulations. She has filed approximately 650 cases based on the alleged inaccessibility of various hotels' online reservation systems. Laufer filed an ADA suit in the U.S. District Court for the District of Maine against Acheson Hotels in 2020, alleging that the company failed to provide sufficient information online about the accessibility of its hotel's rooms and features.

The district court dismissed Laufer's claims, holding that she "ha[d] not asserted a plausible injury that is concrete and imminent" because she had no "immediate plan" to travel from Florida to the defendant's hotel in Wells, Maine. The U.S. Court of Appeals for the First Circuit disagreed, reversing the district court's decision and remanding for further proceedings because, under *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982), "Laufer's lack of intent to book a room at Acheson's Inn [does not] negate her standing." In doing so, the First Circuit joined one side of a circuit split on the issue of whether tester standing independently satisfies constitutional standing requirements. Acheson Hotels subsequently filed its petition for a writ of certiorari in the Supreme Court.

The Supreme Court's decision in this case could have a significant impact on the volume of ADA litigation and the incidence of serial filers in this space. If the Court determines that plaintiffs must show clear intent to visit a public accommodation in order to sue under the ADA, its decision would be likely to lead to an ebbing of ADA lawsuits nationwide, making it much more difficult for plaintiffs like Laufer to file hundreds of lawsuits against businesses without concrete evidence of an intention to actually visit those businesses. On the other hand, if the Court affirms the First Circuit's decision, it could lead to increased ADA litigation and embolden additional plaintiffs to pursue accessibility claims on the basis of tester standing.

The case, *Acheson Hotels, LLC v. Laufer*, Docket No. 22-429, has not yet been set for argument, although it is expected to be heard during the Supreme Court's October Term 2023.

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