

Chamber seeks remedy to drive-by lawsuits

By Doug Loon

White Bear Lake Press: Serial litigator suing businesses over disability access, October 2015

KTOE Radio, Mankato: More than half-dozen Mankato businesses sued over ADA, June 4, 2015

Fox 9 TV: Small businesses sued by controversial lawyer over Americans with Disabilities, Oct. 26, 2015

Small Business Trends: More Than 100 Minnesota Businesses Sued Over ADA Violations, October 2015

Small businesses across Minnesota have become the target of lawsuits alleging violations of disability laws. These actions of one attorney forced many businesses to pay thousands of dollars in settlement demands, and at least a few have closed their doors. The lawsuits have surfaced in numerous communities including Mankato, Marshall, Rochester, Shakopee, Minneapolis, St. Paul and White Bear Lake. More than 120 lawsuits have been filed in the past two years.

Make no mistake, the Minnesota Chamber and our members want their businesses to be fully accessible to their customers and to comply with federal and state disability laws. Providing access for disabled customers is simply good for business. However, the lawsuits appear to have the primary goal of lining the pockets of attorneys versus improving access.

It's important to understand the types of violations that are being targeted. These lawsuits have been filed against an 84-year-old widow who runs an antique store in Marshall alleging a jukebox is blocking a door; against a clinic in Minneapolis claiming a door threshold is an inch too high even though there was a fully accessible and compliant entry; against a White Bear Lake restaurant because of a step at its front door even though the side door has a ramp.

Most businesses, when notified of an alleged violation, have immediately taken steps to correct the problem or have shown that they are actually compliant. Yet, the lawsuits are not dropped, and the plaintiffs continue to ask for large settlement awards.

Businesses often wind up paying a settlement – \$8,000 on average – to avoid the additional cost and time of litigation. These settlements are a financial hardship on these small businesses.

The good news is that we're making progress in seeking legislation to stop what many characterize as abusive lawsuits. We are working with the Minnesota State Council on Disability to ensure that our solution is acceptable to the disability community. We are educating employers on their requirements under the Americans with Disabilities Act, and, in our state, the Minnesota Human Rights Act.

At the Legislature, we are developing a bipartisan solution with Rep. Dennis Smith, R-Maple Grove, and Sen. Kari Dziedzic, DFL-Minneapolis. The legislation would require that businesses be notified of an alleged violation and be given an opportunity to fix the problem prior to any civil action being filed. The

intent is to help prevent these drive-by lawsuits by minimizing the opportunity for attorney fees and settlement demands while still requiring businesses to comply with the law.

We do not want to protect businesses that refuse to correct a violation. We do, however, want to give businesses proper notice and a reasonable time to fix the problem. That's a win-win for all businesses and all customers alike.

Doug Loon is president of the Minnesota Chamber of Commerce – www.mnchamber.com.