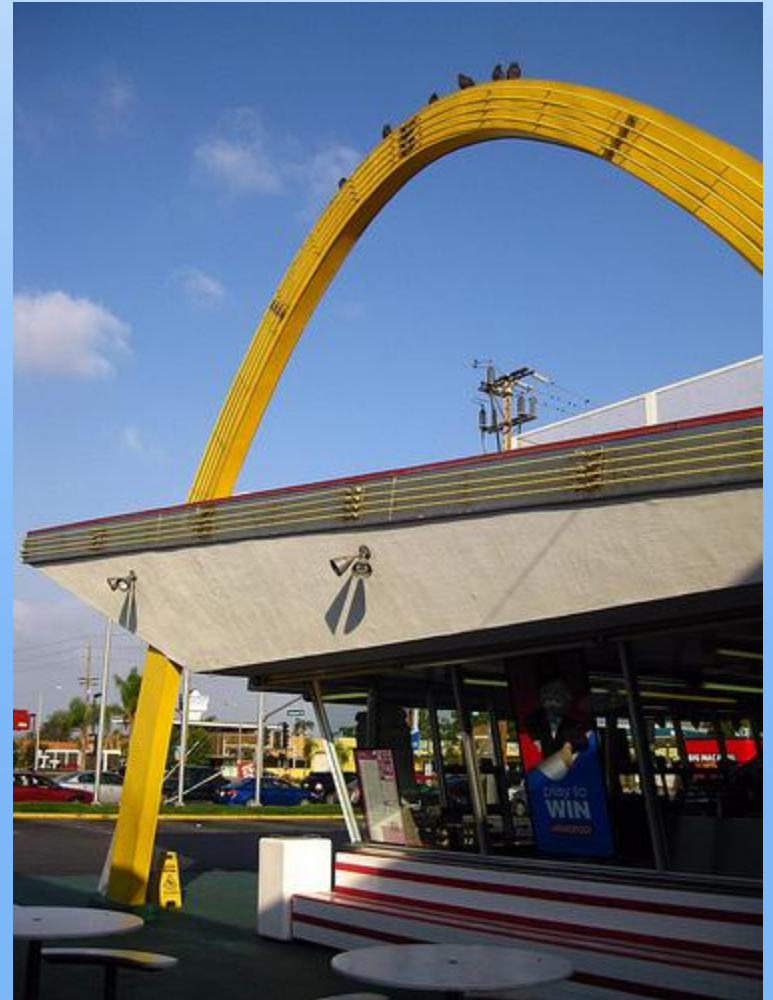


Restroom Mirror Too High

An ADA Violation Examined

Bruce Yodis
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The Restaurant



The Story

- Restaurant owner Ron Piazza is being sued for ADA noncompliance because his restroom mirror was placed 2” too high.
- But let’s have him tell the story.



Charges

- ADA noncompliance
- Bathroom mirror 2” too high does not meet ADAAG standards.
- 27 counts of the violation (3 people visited a total of 27 times)
- Each visit inflicted damage on the plaintiffs

The Federal Standards

- ▣ Must be intentional
- ▣ Designed to gain compliance by the offending company or individual
- ▣ Inform first with “fix it” letter
- ▣ Can not gain monetarily from suit
- ▣ Recover attorney fees

California Standards

- Unruh Civil Rights Act of 1905
 - Wide range of discrimination laws
 - Does not require “intentional” discrimination
 - Minimum of \$4,000 per violation
- 1992 California legislation made ADA violations also a violation of the Unruh act
 - Strengthen CA law where weaker than ADA
 - Retain CA law where ADA did not meet CA standards

Federal Interpretation

- 2004 Federal Ninth Circuit court

“... interpreted a violation of the ADA to be a per se violation of the Unruh Act, reasoning that a showing of intentional discrimination was not required in order to award damages under the Unruh Act.”

- **Per se violation**: as a matter of law. Can now award punitive damages

Outcome

- Don't know the outcome of the suit
- Under California laws and interpretation of the laws, this is a legal lawsuit (however frivolous it may be) and could result in favorable outcome for the plaintiffs
- However....
 - Would a “reasonable person” visit the same restaurant 27 times if it inflicted damage on them???

What to do

- Get an expert to inspect your premises
- Before making any changes, know the ADA standards that may be affected by that change.
- Be vigilant – someone else will surely be watching if you aren't!!

