



**What Every Tenant and Landlord Needs to Know About ADA Access Violations**  
will begin at 12:30 pm ET

Audio and Visual are provided through the on-line webinar system. This session is closed captioned. Individuals may also listen via telephone by dialing 1-857-232-0476 Access Code: 368564 This is **not** a toll-free number

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### About Your Hosts...

- TransCen, Inc.
  - Improving lives of people with disabilities through meaningful work and community inclusion
- Mid-Atlantic ADA Center, a project of TransCen, Inc.
  - Funded by National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, U.S. Department of Health and Human Services



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### Listening to the Webinar

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- To connect by telephone:

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### Listening to the Webinar *continued*

- MOBILE Users (iPhone, iPad, or Android device – including Kindle Fire HD)  
Individuals may listen\*\* to the session using the Blackboard Collaborate Mobile App (Available free from the Apples Store, Google Play or Amazon.)

\*\*Closed Captioning is not visible via the Mobile App and limited accessibility for screen reader/Voiceover users

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### Captioning

Real-time captioning is provided; open the window by selecting the "cc" icon in the Audio & Video panel

- You can re-size the captioning window, change the font size, and save the transcript



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## Submitting Questions



- **In the webinar platform:**
  - You may type and submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area. You will not be able to see the question after you submit it but it will be viewable by the presenters
  - If you are connected via a mobile device you may submit questions in the chat area within the App
- Questions may also be emailed to:  
**ADAtraining@transcen.org**

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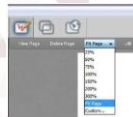
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## Customizing Your View

- Resize the Whiteboard where the Presentation slides are shown to make it smaller or larger by choosing from the drop down menu located above and to the left of the whiteboard. The default is "fit page"



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## Customize Your View continued

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## Technical Assistance

### If you experience technical difficulties

- Use the Chat panel to send a message to the Mid-Atlantic ADA Center
- E-mail ADAtraining@transcen.org
- Call 301-217-0124

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## Archive

- This webinar is being recorded and can be accessed within a few weeks
- You will receive an email with information on accessing the archive

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SEYFARTH SHAW



### WHAT EVERY TENANT AND LANDLORD NEEDS TO KNOW ABOUT ADA ACCESS VIOLATIONS IN PUBLIC ACCOMMODATIONS FACILITIES

Presented by: Minh N. Vu  
Seyfarth Shaw, LLP  
February 15, 2017

Seyfarth Shaw LLP

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### Today's Topics

- ADA Title III access requirements/common misconceptions
- Who is responsible for access violations?
- Best practices for avoiding lawsuits
- Common conflicts between landlords and tenants
- Drive-by lawsuit strategies

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### What is a place of public accommodation?

- Examples:
  - Retail establishments
  - Restaurants
  - Movie theatres
  - Insurance offices
  - Health care facilities
  - Banks and financial institutions
  - Service establishment (e.g., car wash, dry cleaners, law firm)
  - Entertainment venues (e.g., movie theatre, sports arenas)
  - Social service establishments (e.g., homeless shelter)

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### ADA Title III Access Requirements for Facilities

Designed and constructed for first occupancy after January 26, 1993	Comply with applicable ADA Standards unless "structurally impracticable"
Designed and constructed for first occupancy on or before January 26, 1993	Access barriers must be removed to the extent "readily achievable" <b>NO GRANDFATHERING OF PRE-ADA BUILDINGS!!!</b>
Altered after January 26, 1992	Alterations must conform to applicable ADA Standards to the "maximum extent feasible."  If alterations are being made to "primary function area," must spend up to an additional 20% of alterations budget to make path of travel to primary function area, and restrooms and telephones serving primary function area, comply with applicable ADA Standards.

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### Who is Responsible for Compliance/ADA Violations?

- Owner, Operator, Lessor, Lessee of public accommodations facility.
- Landlord/lessor always responsible under law for all property owned, even if leased to tenant
- Tenant/Lessee only responsible for leased premises
- Allocations of responsibility in leases only good between parties; not defenses against plaintiff with disability

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### Best Practices for Avoiding Lawsuits

- Make sure certain elements are accessible
  - Accessible parking, sidewalks, ramps
  - Restrooms
  - Sales counters
  - Aisles
  - Accessible seating
- Periodic review of ADA accessibility issues by expert
- Difficult to deter serial plaintiff who's out to find a barrier

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### Possible Landlord/Tenant Conflicts About Accessibility

- Landlord refuses to give tenant permission to remove barrier on leased premises
- Tenants fail to remove barriers they are responsible for removing under the lease
- Tenants engage in operational practices that violate the ADA (e.g., exclusion of service animals)
- Landlord or Tenant has obligation under lease to indemnify/defend lawsuit but fails to do so

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### Drive-by Lawsuit Strategies

- Keep high profile elements accessible (e.g., parking)
- Resolve lawsuit quickly without litigation for low dollars and some changes
- Motion to dismiss based on standing
- Investigate plaintiff to verify disability

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QUESTIONS?

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### Contact Us

- **ADA questions**
  - ADA National Network
    - 1-800-949-4232 V/TTY
    - ADAata.org
- **Questions about this webinar**
  - Mid-Atlantic ADA Center
    - 1-800-949-4232 V/TTY (DC, DE, MD, PA, VA, WV)
    - 301-217-0124 local
    - ADAinfo.org
  - TransCen, Inc.
    - 301-424-2002
    - TransCen.org

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