



Mid-Atlantic  Center

 **TRANSCEN** inc.
career and workforce development

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

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



TRANSCEN inc.
career and workforce development

Mid-Atlantic  Center

 **NIDILRR**
National Institute on Disability, Independent Living,
and Rehabilitation Research

Mid-Atlantic  Center  **TRANSCEN** inc.

2

Listening to the Webinar

Online:

- Please make sure your computer speakers are turned on or your headphones are plugged in
- Control the audio broadcast via the AUDIO & VIDEO panel
- If you have sound quality problems, please go through the Audio Wizard by selecting the microphone icon



3



Listening to the Webinar *continued*

- To connect by telephone:

1-857-232-0476

Pass Code:

368564

This is **not** a toll-free
number

4



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

5



Captioning

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

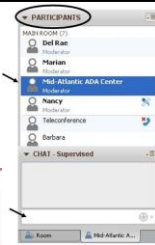
- You can re-size the captioning window, change the font size, and save the transcript



6



Submitting Questions



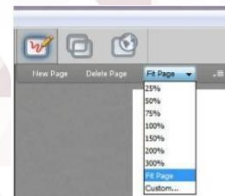
- **In the webinar platform:**
 - You may type and submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area. You will not be able to see the question after you submit it but it will be viewable by the presenters
 - If you are connected via a mobile device you may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

7



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”



8



Customize Your View continued

- Resize/Reposition the Chat, Participant and Audio & Video panels by “detaching” and using your mouse to reposition or “stretch/shrink”. Each panel may be detached using the ☰ icon in the upper right corner of each panel

9



Technical Assistance

If you experience technical difficulties

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

10



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

11



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

"Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).
©2017 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

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

13

©2017 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

13

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)

14

©2017 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

14

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” NO GRANDFATHERING OF PRE-ADA BUILDINGS!!!
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 <i>additional 20% of alterations budget</i> to make path of travel to primary function area, and restrooms and telephones serving primary function area, comply with applicable ADA Standards.

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

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

17

©2017 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

17

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

18

©2017 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

18

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

SEYFARTH
SHAW

QUESTIONS?

Contact Us

- **ADA questions**
 - **ADA National Network**
 - 1-800-949-4232 V/TTY
 - ADAta.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