

21 East Carrillo Street
Santa Barbara, CA 93101
Telephone: (805) 963-7000
Fax: (805) 564-6530



Eric Berg

Direct Dial: (805) 882-1408
EBerg@HatchParent.com

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CASE ALERT

AMERICANS WITH DISABILITIES ACT (ADA)

On behalf of our Wine Practice Group, I want to alert you to a situation that we are encountering in representing several clients on the Central Coast.

A San Francisco based non-profit organization has been filing lawsuits against wineries throughout the Central Coast for alleged violations of Title III of the Americans with Disabilities Act (“ADA”). Title III of the ADA prohibits privately operated public accommodations from denying goods, programs and services to people based on their disabilities. “Public accommodations” are private entities open to the public, including places of entertainment and education, service establishments such as restaurants, hotels, professional offices, hospitals, parks and sporting venues ... and winery tasting rooms. Businesses subject to the ADA must accommodate patrons with disabilities by making reasonable modifications to policies and practices, providing auxiliary aids and improving physical accessibility in existing facilities when barrier removal is readily achievable. New and renovated commercial building must be made readily accessible if the construction was done after January 26, 1992.

The complaints, filed in Federal Court, focus on issues pertaining to proper legal access for disabled individuals to the wineries’ tasting rooms, including adequate disabled parking, availability of wheelchair ramps, restrooms that are handicapped compliant, access to the tasting counters for individuals in wheelchairs, and proper signage. The complaints also allege personal injuries to certain disabled individuals allegedly incurred while traversing the dirt and gravel parking lots at the wineries. Plaintiffs are seeking compensatory and punitive damages, as well as attorneys’ fees.

Although many of the tasting rooms along the Central Coast were built prior to January 26, 1992, many have undergone significant alterations and renovations since that time. The ADA requires that if alterations that effect or could effect the usability of the facility are made in an existing facility, they must be made so that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities. When an area of primary function is altered, such as the tasting room within the winery itself, the paths of travel to it also must be made accessible, unless doing so would be disproportionately costly. This could include widening doorways, changing the types of door handles in use (e.g., from knobs to handles) adding ramps outside the building, altering restrooms, etc.

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In short, it is quite possible that the accessibility provisions of Title III are applicable to your tasting room and there could be substantial costs associated with achieving compliance with the ADA. Effective strategies in responding to a lawsuit vary widely, but can include:

1. Early identification of potential non-compliance.
2. Dismissals of those claims without merit.
3. Mediation of those claims with potential merit.
4. Resolution well before significant time and money has been spent responding to the lawsuit.

Please feel free to contact me at (805) 882-1408 with any questions or comments.

Eric Berg
For HATCH & PARENT
A Law Corporation

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