

Americans with Disabilities Act Compliance Consultants How to Avoid the Snake Oil Salesmen

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What is all the fuss about?

Since passage of the Americans with Disabilities Act (ADA) in 1990, people with disabilities have become more visible. They have more opportunities, more buildings and businesses are becoming accessible and more employers are hiring these qualified applicants but there is so much more work to do.

The problem is that many businesses and public entities have adopted a “**wait and see**” attitude toward compliance or they assume, incorrectly, that if they have been around for awhile then they are “**grandfathered**” and don’t need to comply so they have done NOTHING.

Well it is now nearly 14 years since the law took effect and many people with disabilities and advocacy groups are, to be blunt, sick of waiting. There are over 6 Million businesses in the US as well as hundreds of Towns, Cities, Counties and States, all with ADA obligations and very few that have met them. Now there are no provisions in the law for the “Wheelchair Police” to show up to enforce the ADA. The law is enforced through complaints to various Federal agencies and through Civil Lawsuits.

Recently there has been a trend in California, Florida and a growing list of other States in what are being called “**Drive-By**” ADA lawsuits. These suits are being filed, sometimes hundreds at a time, against small businesses demanding thousands of dollars in legal fees to settle the cases. The access issues identified are usually things that the business could easily and inexpensively fixed, if they had simply done a facility audit and a little staff training. In one case in California, a gentleman with a disability got sick of waiting for voluntary compliance and has filed over 300 civil lawsuits, settling 150 so far for \$20,000 to \$35,000 each. By my math that runs into more than 3 MILLION DOLLARS.

THAT is what all the fuss is about.

What can a Consultant do for your business?

A “Qualified” ADA/Accessibility Consultant can save your business a lot of money and bad publicity. Depending on the size and type of business you have, it could cost you a few hundred to a few thousand dollars to potentially save tens of thousands of dollars in legal fees and fines.

Services normally available include on-site audits of your facilities to look at physical access, as well as policy reviews, staff awareness trainings and even specialized trainings for your HR and facilities staff.

Consultants should provide you with a detailed report of their findings including measurements, photos, rough costs and a prioritized transition plan to work you toward compliance. On-going technical assistance is also usually a function of a good consultant.

They can walk you through the tax breaks available and, in the event of a complaint, can demonstrate your “good will efforts” as well as serve as a liaison between you and the investigators/plaintiffs.

What a Consultant is not there to do.

An ADA consultant is not there to sugar coat the law or your responsibilities. They are not there to help you “get out of” or “get around” complying with the law. It is important to remember that you may hear things from your consultant that you don’t want to hear, but the point is you need to know the facts.

Just who is “Qualified”?

Like most things, if there is a chance to make a dollar or two someone will try to take advantage of it. That is certainly true of ADA Consultants.

First point: There is NO SUCH THING as a Federally “Certified” ADA Consultant. There are several groups like the ABA and the AIA that offer limited training to their members (attorneys & architects) but the Federal Government DOES NOT “certify” ADA Consultants.

Second Point: NO ONE other than the courts and the Federal agencies with ADA authority can guarantee that you are in compliance.

Many companies sprang up after the ADA was passed and suddenly everyone was an ADA expert. Most have no legitimate ADA training and very limited if any experience with accessibility issues. In one case the expert that a company hired presented their findings along with an “intent to sue” letter if the changes were not made within a short timeframe. Not exactly what we would call ethical.

Here are a few tips to think about when considering a “Qualified” ADA Consultant:

- Do they have any FORMAL ADA/Access Training?
 - Did they participate in the Federal ADA Training Program?
 - Did they attend a 1 day seminar somewhere?
 - Did they simply read a book?
 - Are they a person with a disability without training who assumes they know what is best?
- How long have they been providing services?
 - Some consultants have been working in the access field since before the ADA was even passed.
 - Others see the ADA as a way to make a quick buck.
- What do their past clients say about them?
 - Will they provide contact information for past clients?
 - Do they practice what they preach?
- Can they provide samples of their past work?
 - Will they provide sample reports or other documentation of past projects to show their qualifications?
- What are their fees?
 - Look for reasonable prices. A consultant’s services are valuable but if the prices are too low or too high is should raise questions.
- Are they “Fulltime” consultants?
 - Are they in another business, selling a related product or service, and just happen to offer ADA services or is “the law” their specialty?
 - There are also many disabled advocacy groups that offer services and while we trust, in most cases, that they are well meaning we suggest that motivation be considered on a case by case basis.
- Are they “High Pressure” or Threatening?
 - While it is true that complaints do happen, there should be no threat or pressure to compliance work.
 - A consultant should tell you the facts, good or bad, and offer creative, hopefully economical ways to help.
- Do they meet ALL of your ADA needs?
 - Most architects ONLY offer ADA Physical Access services.
 - Most attorneys ONLY offer ADA Legal or Policy services.
 - Comprehensive ADA firms should have training and experience in ALL aspects and Titles of the ADA and related access laws.

Recent statistics from the US Department of Labor show that there are approximately 54 Million Americans with a disability. That means that roughly 1 in 5 people will experience a disability their lifetime. Stop and think about it, Disability is the only minority that anyone can join and without any notice usually as well. The DOL study further showed that those 54 Million people have approximately \$175 Million dollars in discretionary income to spend. What business would not like their share of those dollars?

The Moral to the Story

The moral to this story is that it takes a little work to find the right Consultant for you and your business.

Ask questions, check references, call the Better Business Bureau and look for actual training and experience.

Expect to pay a reasonable price for services, like to old saying goes; you get what you pay for. If you get services for nothing, then that is probably what they are worth.

The cost of an audit, training or other ADA Consulting Service is FAR LESS than the legal fees, fines and bad press of failing to comply and receiving an ADA Violation.

Make sure your consultant can fully meet your needs. Don't pay for services that you don't need or for several subcontractors to cover all of your compliance needs.

Compliance with the Americans with Disabilities Act (ADA) doesn't need to be painful, frightening, overly stressful, or be so expensive that it puts you out of business.

But ADA Compliance does need to be done and a Qualified ADA Compliance Consultant can help!

Randy G. Wagoner is a nationally recognized ADA/Access Expert. He is a member of the National ADA Training & Implementation Network and the National Association of ADA Coordinators. Mr. Wagoner is a wheelchair user and 1 of 150 people nationwide who received Federal Training as ADA Compliance Consultants through the EEOC and US DOJ. He is the Owner and Lead Consultant of Wagoner & Associates, Inc.

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