



Disability and Guardianship Project

555 S. Sunrise Way, Suite 205 • Palm Springs, CA 92264
(818) 230-5156 • www.spectruminstitute.org

Superior Court of the State of California

October 14, 2019

Re: A need to reevaluate the court's duties under the ADA

Dear Presiding Judge:

I am writing to share information with you about the responsibilities of the superior court under Title II of the Americans with Disabilities Act.

I recently spoke to the Judicial Council at its meeting in Sacramento on September 24. <http://disabilityandabuse.org/tom-remarks.pdf> In connection with that presentation, I submitted a report about the need for the judicial branch to update court rules and judicial education materials to reflect the clear requirements of federal law. <http://spectruminstitute.org/ada-compliance.pdf> Current rules and materials are misleading to superior court judges, court employees, and appointed agents of the court. The implied, and sometimes express, statement that the court only has ADA responsibilities if an accommodation is requested is contrary to the requirements of Title II and Section 504 of the Rehabilitation Act of 1973. <http://spectruminstitute.org/cal-vs-feds.pdf>

Court officers and employees must provide accommodations when they become aware that a litigant has a disability that interferes with effective communications or meaningful participation in a court proceeding. A request is just one way that such knowledge is acquired. Sometimes when the need is *obvious*, such as in a conservatorship proceeding, an ADA assessment must be done *sua sponte*.

It is essential that you, your staff, and court agents are aware of this duty. ADA violations are grounds for complaints against the court with the federal Department of Justice under Title II and with the state Department of Fair Employment and Housing under Government Code Section 11135.

ADA complaints have been filed against superior courts. For example, a complaint was filed with the Sacramento Superior Court for failing to appoint counsel for respondents in conservatorship proceedings. <http://spectruminstitute.org/Sacramento/> DFEH was asked to investigate that court under Section 11135. <http://spectruminstitute.org/Sacramento/dfeh-inquiry-letter.pdf> ADA complaints were filed against the Los Angeles Superior Court with the U.S. Department of Justice. <http://spectruminstitute.org/doj/> One inquiry was opened and one complaint is still under review.

I urge you to take steps to ensure that your ADA coordinator, court investigators, probate examiners, clerical staff, and court-appointed attorneys are accurately informed of the requirements of state and federal nondiscrimination laws. Access to justice depends on court compliance with the ADA.

Respectfully,

Thomas F. Coleman
Disability and Guardianship Project
tomcoleman@spectruminstitute.org

cc: Chief Justice Tani Cantil-Sakauye
Hon. Gary Nadler, Chair, TCPJAC
Mr. Corey Rada, Staff, TCPJAC