

ADA:

Defense Strategies and Attorney Fee Awards in Light of Recent Legislation and *Jankey v. Lee*

In the recent California Supreme Court decision of *Jankey v. Lee*, the Court unanimously upheld an award of attorney fees in favor of the defendant, a small San Francisco business owner, against a serial ADA plaintiff. Defendant's counsel in the San Francisco Superior Court action and counsel who submitted Amicus Curiae briefs on behalf of public entities, property owners and small businesses will discuss the decision and its potential impact on existing and future ADA claims. The panel will review General Order 56 which regulates the handling of ADA cases in the federal Northern District Court and the newly enacted Senate Bill 1186, the California Legislators' most recent attempt to protect property owners and small businesses from the financial devastation often associated with defending ADA claims. In addition, the experienced panel will discuss establishing available affirmative defenses and effective strategies to be utilized when negotiating the settlement of ADA claims. The interactive presentation will be of interest to attorneys representing property owners, business owners and public entities. The distinguished panelists will participate in a question and answer session at the conclusion of the presentation.

MCLE Information

This activity has been approved for Minimum Continuing Legal Education credit by the State Bars of California and Nevada in the amount of 1.5 hours. The ADCNCN certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Boards of California and Nevada.

Special Thanks

Education Section Chairperson,
Laura S. Flynn
Low, Ball & Lynch, San Francisco, CA

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Sutter Club Sacramento
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Friday, February 22, 2013
4:00 pm - 5:30 pm Sessions
5:30 pm - 6:30 pm Reception
Sutter Club Sacramento

ADA: Defense Strategies and Attorney Fee Awards in Light of Recent Legislation and *Jankey v. Lee*

Friday, February 22, 2013 • 4:00 pm – 6:30 pm • Sutter Club Sacramento • 1220 Ninth Street • Sacramento, CA

TOPICS TO BE DISCUSSED:

An Overview of the *Jankey v. Lee* Decision

Factual Background • Granting of Summary Judgment • Granting of Motion for Attorney Fees • Conflict Between Federal and State Case Law • Amicus Curiae Briefs • Supreme Court's Ruling • Likely Impact of Ruling

Recent Federal and State Legislation

Expanded Definition of "Disability" • General Order 56 • Senate Bill 1186 • Favored Venue • Ability to Utilize State Statute Requirements in Federal Court

Establishing Available Affirmative Defenses

"Qualified" Individuals • Standing • Mootness • Not Readily Achievable • Statute of Limitations • Equivalent Facilitation • Alternative Access • Construction Tolerances under ADAAG • Mitigation of Damages

Effective Negotiation of Settlements

Educate Client and Manage Expectations • Understand Goals of Plaintiffs and Plaintiffs' Counsel • Stay Current on Applicable Legal Standards • Secure Private Resolution of Matter before Mediation • Position Case for Mediation

PANELISTS:

Lizbeth V. West of *Weintraub Tobin Chediak Coleman Grodin Law Corporation* (Sacramento) –

Author of Amicus Curiae Brief in *Jankey* on behalf of California Hotel & Lodging Association, California Restaurant Association, California Business Properties Association, Building Owners and Managers Association of California, California Building Industry Association, California Chamber of Commerce, et al.

James M. Emery, Deputy City Attorney (San Francisco) –

Author of Amicus Curiae Brief in *Jankey* on behalf of League of California Cities

Jason G. Gong of *Law Office of Jason G. Gong, APC* (Walnut Creek) –

Attorney for Lee in San Francisco Superior Court action and before First District Court of Appeal

Lonnie Haughton of *Richard Avelar & Associates Certified Accessibility Specialist / ICC Master Code Professional* –

ADA Expert in underlying trial court action

MODERATOR:

Laura S. Flynn of *Low, Ball & Lynch*



ADA: Defense Strategies and Attorney Fee Awards • 2/22/13 • Sacramento, CA

Registration Fees: ADCNCN Member – \$150 Non-Member Attorney – \$200 Insurance Claims Professionals and Business Owners – \$125 Municipal Attorney – \$150

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