

## ADA suits divide business, disabled communities

Ryan Burns/The Times-Standard

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The closure of Eureka's Arctic Circle last month – prompted in part by an Americans with Disabilities Act noncompliance lawsuit filed by Eureka attorney Jason K. Singleton – has sparked community outrage over what some see as a spate of frivolous lawsuits, while others say it's the disabled who remain the victims.

Since 1997, Singleton has filed ADA suits against many local businesses, including Village Pantry, the Minor Theatre Corp., Cher-Ae Heights Casino and Cafe Waterfront. His latest string of suits – against Barnes Arcata Family Drug, McKinleyville's Central Station bar, Six Rivers Brewery and others – has caused a panic among small business owners who worry that they'll be next.

"They're ringing the phones off the hook," said Greater Eureka Chamber of Commerce Executive Director J Warren Hockaday.

Most of the callers have the same question: How can I keep from getting sued?

Eureka insurance agent P.J. "Paul" Nicholson spent more than three weeks studying ADA regulations and renovating his business after a lawyer – not Singleton – filed suits against 200 State Farm offices up and down California's I-5 corridor.

Nicholson hired Disability Access Consultants, Inc. to inspect his property. For \$1,000, the company provided Nicholson with a report of possible ADA violations, including his front door, which was an

eighth of an inch too short. Nicholson merely had to replace the weather stripping to be in compliance.

Many business owners are afraid that this type of minor infraction is exactly what lawyers like Singleton are looking for.

"That's bull\*\*\*\*," Singleton said from his office on Thursday. "Go pull any of the files and show me a business that didn't have very substantive barriers to access."

Singleton said his office always sends a letter requesting ADA compliance before filing a lawsuit and only proceeds if there is no response. Minor infractions are never the main incentive, he said.

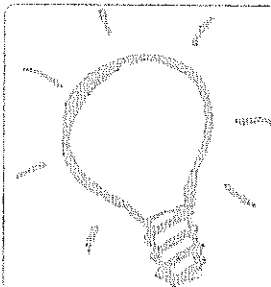
"That's not to say that after we got into a lawsuit, yes, you can find individual items like that," Singleton said. But he feels businesses have no excuse for not being compliant. The ADA law, after all, has been on the books since 1990.

"At what point are people with disabilities supposed to do something?" Singleton asked. "Are they supposed to get in front of the building and beg for access?"

When asked if he worries about the impact his lawsuits have on small businesses like Arctic Circle, he responded, "You're asking, do I have some moral or ethical issue with representing people who are disabled and can't get (proper) access? No, I do not."

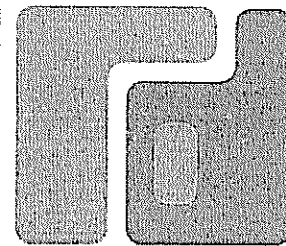
Chris Jones, executive director of Tri-County Independent Living, while not supporting Singleton's methods, agrees that business owners have had plenty of time to make their premises accessible. She feels that the attention being paid to these so-called "drive-by lawsuits" takes the focus away from the real issue – disabled people who still

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"It's disappointing that this is where ADA has come to," Jones said. "The authors (of the bill) worked for decades. It was such hard work. When it passed, it was like emancipation for people with disabilities."

She said that total compliance is not required under the law. Rather, businesses must make "reasonable accommodations" within their means, but nothing that would cause an "unreasonable hardship."

"There are lots of inexpensive things you can do," she said. "Make an attempt."

But Dave Corkill, owner of the Cinema West theater chain, which includes the Fortuna Theatre, said that to him, the work lawyers like Singleton do is not really about making a good-faith effort. Singleton sued the Fortuna Theatre for compliance issues in 2001.

"The way (Singleton and his staff) do business is they come in with a camera and take pictures," Corkill said. "They don't talk to you first because they can't make money if they talk. That's the game they play."

Since it's usually cheaper to settle than go to court, most business owners don't fight the lawsuits.

"For me, it wasn't a financial decision," Corkill said. "Jason Singleton is not a pleasant person. I'm sure he regrets ever suing us."

Cinema West fought the case in federal court and won. Singleton appealed to the 9th Circuit Court of Appeals, which upheld the ruling.

"We were clearly able to prove that many of his claims were just plain lies," Corkill said.

By going to court, Corkill said he ended up paying more money than if he'd simply settled. "But it really was a matter of principle," he said. "We didn't have violations; he said we did."

Not everyone can afford to take that kind of stand, he said.

"I am financially capable of dealing with (the suit) in the manner we did," Corkill said. "Most people aren't. Business owners ... struggle to make just enough money to pay the bills. They don't budget in the \$25,000 settlement fee Jason Singleton wants."

But Singleton's intention is not to put companies out of business, according to Corkill.

"He targets businesses that can afford to pay him," Corkill said. "That's how this game is played."

Singleton has been accused of seeking out disabled people, encouraging them to sue and then using them as plaintiffs again and again.

"His big plan is to sue (a business) and then haul them to federal court," said Catherine Corfee, an attorney who has faced off against Singleton in court. "He has multiple lawsuits that he's filed on behalf of serial litigants. It's not about access to public accommodations; it's about access to their pocketbooks."

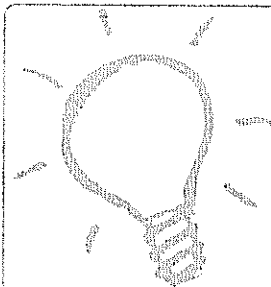
Singleton denies those accusations.

"I don't seek out any cases. I just take what clients bring me," he said.

Court records show some of his clients do sue multiple times.

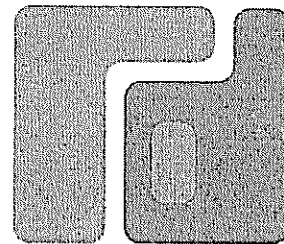
Patrick McMahon, a Rio Dell resident who has cerebral palsy, was one of the plaintiffs in the

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Fortuna Theatre case. Singleton also represented him in cases against Angelo's Pizza, the City of Fortuna and Fortuna HealthSport.

A relative of McMahon's, who did not want to be identified for fear of legal retaliation, alleges Singleton used McMahon "to the hilt."

"He's in no way able to even work out (at a gym)," the relative said.

McMahon himself said the local cases were his idea and that he was indeed discriminated against in each case. But after those cases settled, he said Singleton approached him about another case in Nevada.

"He had an associate over there, and they wanted to go to a place," McMahon said. "So I went."

McMahon's relative claims a suit was subsequently filed against a casino that McMahon had never been in until then.

Singleton said that never occurred.

"My office has certainly never filed a lawsuit in Nevada," he said. "I'm not even licensed in Nevada."

The combative atmosphere that has developed is exactly what Hockaday and the Chamber of Commerce tried to avoid several years ago by hosting informational workshops with members of the business and disabled communities.

"People are starting to take sides again," Hockaday said.

Jones feels the battle lines are often drawn in the wrong place.

"People's outrage transfers from (Singleton) to the

disabled community," she said.

Many on both sides of the issue are hoping that a bill currently working its way through the state Senate will clear up confusion about ADA compliance. Senate Bill 1608 is described by its authors as, "a multi-faceted strategy to effectively increase compliance (with the ADA)."

If established as law, the bill would create the California Commission on Disability Access and allow businesses who hire certified inspectors to be deemed "qualified defendants." As such, these businesses could request a limited stay and an early settlement conference to possibly resolve the litigation at an early stage.

"It could be a win-win," Jones said, but she's not optimistic about the bill's chances. "They want to create a commission on disability access, and budget cuts are coming."

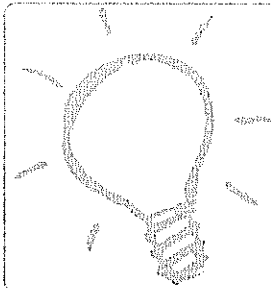
Trial lawyers are actively fighting the bill.

When asked his opinion of SB 1608, Singleton said he already follows the guidelines put forth in the bill.

"It wouldn't affect me at all," he said.

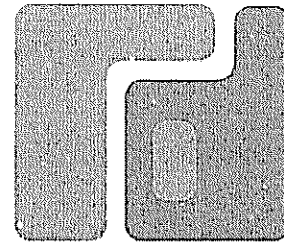
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