

EMPLOYMENT SERVICES ALERT

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Banks are Increasingly Becoming Targets of Americans with Disabilities Act ATM Class Action Lawsuits

Amendments to the Americans with Disabilities Act (ADA) require ATMs to include audio-based capabilities for all features on the machine. For example, if standard users are able to obtain transaction histories or account balances, then blind customers must be able to obtain the same information using the text-to-speech mode. ATMs must also include signage directing customers to the functions for disabled users. These requirements are not new as they were included in the 2010 ADA Standards for Accessible Design published by the Department of Justice on September 15, 2010. These regulations took effect on March 15, 2011, with all ATMs required to be updated by March 15, 2012. Just recently, however, ATMs have become the focus of law firms that specialize in representing disabled individuals. Certain law firms have filed hundreds of almost identical ADA ATM class action lawsuits in federal court since March 2012. Some of these law firms have expanded their practice of filing these lawsuits into multiple states. For example, Carlson Lynch is a Pittsburgh-based law firm with no offices in Ohio; yet it has filed over nine ADA ATM class action lawsuits in Ohio federal courts since May 2013. Certain other law firms advertise for local counsel in states in which they do not have a presence for the sole purpose of filing ADA lawsuits. These lawsuits are a boon for plaintiff's law firms because the ADA awards attorneys' fees for prevailing plaintiffs, which makes these types of lawsuits potentially very expensive for the financial institution that is targeted.

The following is a more detailed list of ATM requirements that are the focus of litigation:

Speech Output

Machines shall be speech enabled. Operating instructions and orientation, visible transaction prompts, user input verification, error messages and all displayed information for full use shall be accessible to and independently usable by individuals with vision impairments. Speech shall be delivered through a mechanism that is readily available to all users, including but not limited to, an industry standard connector or a telephone handset. Speech shall be recorded or digitized human, or synthesized.

Input Controls

At least one tactilely discernible input control shall be provided for each function. Where provided, key surfaces not on active areas of display screens shall be raised above surrounding surfaces. Where membrane keys are the only method of input, each shall be tactilely discernible from surrounding surfaces and adjacent keys.

Numeric Keypads

Numeric keys shall be arranged in a 12-key ascending or descending telephone keypad layout. The number five key shall be tactilely distinct from the other keys.

Display Screen

The display screen shall be visible from a point located 40 inches (1015 mm) above the center of the clear floor space in front of the machine. Characters displayed on the screen shall be in a sans serif font. Characters shall be 3/16 inch (4.8 mm) high minimum, based on the uppercase letter "I." Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.

Braille Instructions

Braille instructions for initiating the speech mode shall be provided.

For further information on the requirements of the ADA and the Standards for Accessible Design for ATMs, please contact any of the following Roetzel attorneys:

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