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## BLOGS

Americans with Disabilities Act

# New York Federal Court Dismisses Claim That “Freestyle” Soda Machines Violate the Americans with Disabilities Act

The United States District Court for the Southern District of New York dismissed a claim brought by blind patrons of the Moe’s restaurant chain that the restaurants’ “freestyle” touch screen Coca-Cola machines were discriminatory under the Americans with Disabilities Act (ADA). *West v. Moe’s Franchisor, LLC*, 2015 WL 8484567 (S.D.N.Y. Dec. 9, 2015). Because the machines did not incorporate “adaptive features” like the tactile buttons found on ATMs, the plaintiffs claimed that they were unable to use the machines independently. They further contended that Moe’s employees failed to provide assistance upon request. The plaintiffs asserted that they were therefore “excluded, denied services, segregated or otherwise treated differently . . . because of the absence of auxiliary aids and services” in violation of Title III of the ADA.

The court found no ADA violation. It held that the availability of Moe’s employees to act as “qualified readers” was sufficient to meet Moe’s obligation to provide “auxiliary aids and services” under the ADA. Rejecting the plaintiffs’ argument that Moe’s was obligated to integrate technology that would enable blind users to use the machines independently, the court distinguished the privacy concerns associated with ATMs that necessitate independent use. The court also dismissed the plaintiffs’ claim that qualified readers were unavailable, observing that the record reflected only one visit to a Moe’s restaurant in which a blind patron was not properly assisted. That isolated incident did not give rise to an inference that Moe’s failed to train its employees on how to provide “auxiliary aids and services” to disabled patrons. Accordingly, the court dismissed the plaintiffs’ claims.

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