

ADA-related District Court Filings: Quick Reference Guide

ADA Region 8

June 2018

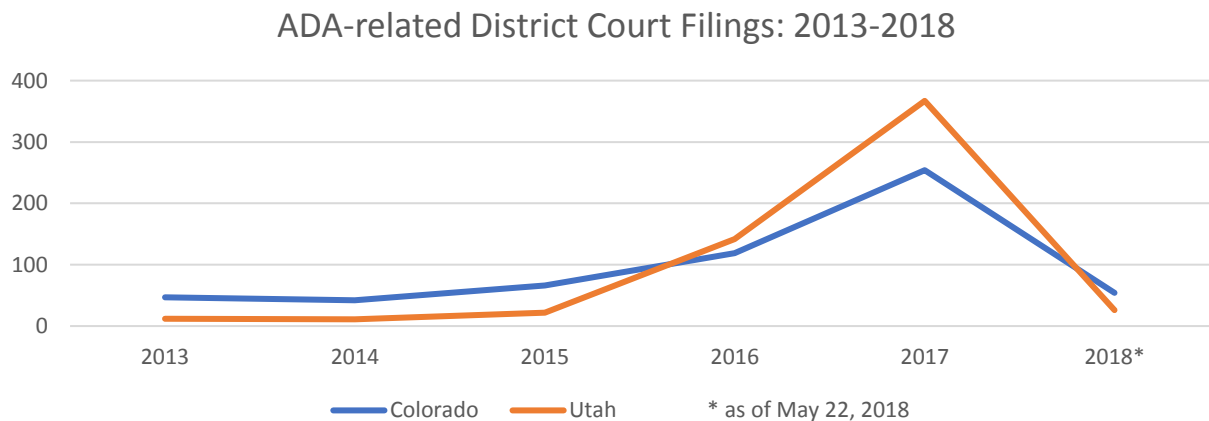
A review of ADA-related complaints (i.e., legal suits filed in District Court on behalf of a defendant) in Region 8 between 2013 and May 22, 2018 indicates that only two of six states experienced ADA complaints. Four of the six experienced zero ADA-related complaints in this timeframe.

Number of ADA-related District Court Filings from 2013 to May 22, 2018

State	State Population	Number of ADA-related Complaints
Colorado	5,684,203	582
Montana	1,062,330	0
North Dakota	755,238	0
South Dakota	877,790	0
Utah	3,159,345	580
Wyoming	573,720	0

Federal courts in Montana, North Dakota, South Dakota, and Wyoming had no ADA lawsuits.

Colorado and Utah had nearly 600 complaints each over a 65-month period with the bulk filed in 2016 and 2017. The number of complaints filed in 2018 is relatively low, but there are 7 months remaining in the year.



Trends:

- ADA lawsuits more than doubled in Utah and Colorado from 2016 to 2017.
- Utah (4) and Colorado (6) made the top 10 list of states for ADA lawsuits in 2017.
- Out-of-state serial plaintiffs filed many of the complaints in Colorado and Utah District Courts.

Common ADA causes of action included:

- Failure to provide an accessible and marked parking space.
- Failure to prevent doors from swinging into floor or turning space.
- Lack of architectural barrier mitigation.
- Failure to provide an accessible toilet.
- Failure to provide operational or functional parts at proper reach ranges in the restroom.
- Failure to provide sinks and countertops (the higher of the rim or counter surface) at the 34 inch maximum height, or not providing required space for open knee and toe clearance under sinks/ counters.
- Lack of insulation on or protection from under-the-sink plumbing.
- Failure to provide grab bars in a restroom.
- Bathroom mirror not installed at the proper height.

Common Concerns/Themes

- General accessibility.
- Access to bathroom sinks and soap dispensers.
- Inadequate parking and ramps.
- Businesses were not contacted and asked to comply with the ADA prior to litigation.

Conclusion

Litigation surrounding violations of the ADA in Utah and Colorado are on the rise. Whether these are related to long-standing issues in the community or are the result of so-called “drive-by lawsuits” is difficult to determine. What is certain is that an increasing number of lawsuits is evident and that several serial plaintiffs are alleging various violations of accessibility against numerous commercial defendants. These several serial plaintiffs are not from Utah or Colorado. While “drive-by lawsuits” may create a negative impression of the ADA and its enforcement in the business community, the issues they raise are real for individuals with disabilities. It is true that using these lawsuits may be an unwelcome “enforcement stick,” but it is also true that they prompt compliance action that was originally called for in the 1990 passage of the Americans with Disabilities Act.

The 2010 ADA Standards for Accessible Design document¹ and related compliance guidance is freely available to individuals, business and government representatives through the national network of ADA Technical Assistance Centers (www.adata.org).

¹ See: https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf