

## **San Francisco, Los Angeles District Attorneys Suing Law Firm for Alleged Fraudulent ADA Title III Suits**

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San Francisco City and County District Attorney Chesa Boudin and Los Angeles County District Attorney George Gascón have filed a lawsuit in the California Superior Court in San Francisco accusing the Potter Handy LLP law firm of filing thousands of “boilerplate, cut-and-paste federal-court lawsuits that falsely assert its clients have standing under the Americans with Disabilities Act (‘ADA’)” in violation of California’s unfair competition law.

In the April 11, 2022, Complaint, the DAs assert that Potter Handy files these lawsuits against small businesses accusing them of violation of Title III of the ADA, with little regard to whether such businesses actually violated the ADA, in an effort to “shake down” small business owners for hefty financial settlements.

The DAs are requesting that the court prohibit Potter Handy from continuing to violate California’s unfair competition law. The Complaint seeks statutory damages, which could be in the tune of millions of dollars, along with law firm repaying thousands of small businesses settlement sums paid over the last four years.

This is not the first time for such action. In 2019, the Riverside County, California’s District Attorney’s office filed a civil action against four individuals — serial plaintiff (James Rutherford) and three attorneys (Craig Cote, Joseph Manning, and Babek Hashemi) — and two law firms (Manning Law, APC, and Law Offices of Babek Hashemi) for violations of California’s unfair competition law and for false advertising.

It has been the case for several years that garden-variety Title III lawsuits, like the cases called into question in these lawsuits, are attorney-driven and aimed to extract a monetary sum from unsuspecting and often compliant business owners.

The Riverside County DA’s office employed a different tactic in its latest filing aimed at remedying alleged misconduct by plaintiffs and their attorneys. It has charged two individuals with six felonies,

including conspiracy and filing a false document. The individuals (Ross Christopher Cornell and Bryan Eduardo Estrada) were arrested on March 10, 2022.

The most important takeaway from these legal actions is the fact that government officials are formally attacking alleged unethical and unlawful fraudulent conduct perpetrated by these lawyers. Although the 2019 case was ultimately dismissed, the DAs in San Francisco and Riverside counties have not been deterred in their mission to hold these serial filers accountable. It remains to be seen whether potential criminal or civil liability will reduce the number of “shake down” ADA lawsuits in California. If so, it is likely that officials in other states facing similar conduct will take similar measures.

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