

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

ROBERT GLEN MYERS,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.:
)	
)	
ST JOSEPH NORTHGATE LLC,)	
a Limited Liability Company,)	INJUNCTIVE RELIEF SOUGHT
d/b/a Northgate Shopping Center)	
)	
Defendant(s).)	
)	
)	

COMPLAINT

Plaintiff, ROBERT GLEN MYERS (“Plaintiff”), by and through the undersigned counsel, hereby files this Complaint and sues ST JOSEPH NORTHGATE LLC, a Limited Liability Company, d/b/a NORTHGATE SHOPPING CENTER (“Defendant”), for declaratory and injunctive relief pursuant to 28 U.S.C. §§2201 and 2202, attorneys’ fees, litigation expenses, costs (including, but not limited to, court costs and expert fees) pursuant to 42 U.S.C. §§ 12182 et. seq., and the 2010 Americans with Disabilities Act (“ADA”), and alleges as follows:

JURISDICTION AND VENUE

1. This Court is vested with original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343 for Plaintiff’s claims arising under Title 42 U.S.C. § 12182 et. seq., based on Defendant’s violations of Title III of the ADA. See also, 28 U.S.C. §§ 2201, 2202, as well as the 2010 ADA Standards.

2. Venue is proper in this Court, St. Joseph, pursuant to 28 U.S.C. § 1391(B) and Internal Operating Procedures for the United States District Court of the Western District of Missouri in that all events giving rise to the lawsuit occurred in Buchanan County, Missouri.

PARTIES

3. Plaintiff is a natural person over the age of 18 and is blind.

4. Plaintiff is *sui juris* and is a resident of the State of Missouri residing in Hamilton, Missouri, located in Caldwell County.

5. According to the Buchanan County Property Appraiser, the Missouri Division of Professional Regulation, and other verifiable public records, Defendant is either the property owner and/or the business operator of the Real Property and improvements, which are subject to this suit. The Real Property is located at 1401 N Belt Hwy, St Joseph, MO, 64506 ("Northgate Shopping Center - 1401 N Belt Hwy") (The Real Property and improvements located at 1401 N Belt Hwy, St Joseph, MO 64506; are collectively referred to as the "Premises").

6. Defendant is authorized to conduct, and is in fact conducting, business within the state of Missouri.

7. Plaintiff is disabled as defined by the ADA and is therefore a member of a protected class under Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12102(2), and the regulations implementing the ADA set forth at 28 C.F.R. §§36.101 et seq. More specifically, Plaintiff is legally blind as a result of advanced age-related macular degeneration, which substantially limits his ability to see and to accurately perceive, identify, and interpret the physical features of his surrounding environment. Due to his blindness, Plaintiff relies on non-visual cues, tactile information, memory, and safe, predictable environments to navigate public accommodations.

8. In addition to his visual impairment, Plaintiff suffers from multiple serious physical impairments that substantially limit one or more major life activities, including but not limited to walking, standing, bending, lifting, breathing, sleeping, and endocrine function. Plaintiff suffers from severe arthritis, which causes chronic joint pain, stiffness, inflammation, and reduced range of motion. Plaintiff has undergone extensive back surgery due to broken vertebrae, including spinal fusion from the hip through the back and surgical removal of a disc, resulting in permanent spinal rigidity, chronic pain, limited mobility, difficulty bending or twisting, and increased fall risk. Plaintiff also suffers from chronic obstructive pulmonary disease (COPD), which substantially limits his breathing and endurance, causing shortness of breath with exertion and limiting his ability to ambulate long distances or traverse slopes and uneven surfaces.

9. Due to the combined effects of these disabilities, Plaintiff has significantly limited mobility, reduced stamina, impaired balance, and increased vulnerability to falls and physical injury. When architectural elements deviate from ADA standards—such as improper clear floor space, excessive slopes, inaccessible routes, non-compliant maneuvering clearances, inaccessible seating, improperly located dispensers, protruding objects, or restroom fixtures installed outside required reach ranges—Plaintiff faces heightened mobility-related risks including tripping, collision, disorientation, inability to independently locate or operate features, shortness of breath from excessive exertion, and increased physical strain. As a result, Plaintiff's disabilities affect not only his ability to see but also his ability to safely and independently ambulate, breathe, maneuver, orient himself, and utilize the goods, services, facilities, and amenities of places of public accommodation.

10. At the time of Plaintiff's visit to the Premises on November 6, 2025 - Northgate Shopping Center - 1401 N Belt Hwy (and prior to instituting this action), Plaintiff suffered from a "qualified disability" under the ADA. Plaintiff personally visited the Premises, but was denied full and equal access and full and equal enjoyment of the facilities and amenities within the Premises, even though he would be classified as a "bona fide patron".

11. Plaintiff, in his individual capacity, will absolutely return to the Premises and avail himself of the services offered when Defendant modifies the Premises or modifies the policies and practices to accommodate individuals who have physical disabilities.

12. Plaintiff is continuously aware of the violations at Defendant's Premises and is aware that it would be a futile gesture to return to the Premises as long as those violations exist, and Plaintiff is not willing to suffer additional discrimination.

13. Plaintiff has suffered, and will continue to suffer, direct and indirect injury as a result of Defendant's discrimination until Defendant is compelled to comply with the requirements of the ADA. Plaintiff required the use of fully accessible and properly marked parking for individuals with disabilities, required the use of fully accessible and properly marked passenger loading zone, and required the use of fully accessible paths of travel throughout the facility due to his abnormal medical conditions and resulting disabilities, which otherwise affect Plaintiff's ability to enjoy places of public accommodation such as the Premises, as further detailed throughout this Complaint.

14. Plaintiff would like to be able to be a patron of the Premises in the future and be able to enjoy the goods and services that are available to the able-bodied public, but is currently precluded from doing so as a result of Defendant's discriminatory conduct as described herein.

Plaintiff will continue to be precluded from using the Premises until corrective measures are taken at the Premises to eliminate the discrimination against persons with physical disabilities.

15. Plaintiff frequently travels to the St. Joseph, Missouri area. During these trips he visits restaurants, bars, shops, hotels, gas stations, entertainment venues, and any other places of public accommodation in the area. In this area, Plaintiff visits with friends and otherwise takes sporadic trips for shopping and leisure.

16. Completely independent of the personal desire to have access to this place of public accommodation free of illegal barriers to access, Plaintiff also acts as a “tester” for the purpose of discovering, encountering and engaging discrimination against the disabled in public accommodations. When acting as a “tester”, Plaintiff employs a routine practice which was employed in this matter. Plaintiff personally visits the public accommodation, as Plaintiff did here and engages all of the barriers to access, or at least of those that Plaintiff is able to access. Plaintiff tests all of those barriers to access to determine whether and the extent to which they are illegal barriers to access. Plaintiff then proceeds with legal action to enjoin such discrimination. Upon resolution of the action and an agreement by the defendant to fix the barriers to access, Plaintiff will subsequently return to the premises to verify its compliance or non-compliance with the ADA and to otherwise use the public accommodation as members of the able-bodied community are able to do. If the premises is not in compliance upon his return, Plaintiff has repeatedly brought breach of contract actions against the defendants for their failures to fix the barriers to access. In some instances, Plaintiff has even filed four and five separate actions against the same premises so as to ensure that they finally comply with the ADA.

17. Plaintiff fully intends and will return to this Premises in this tester capacity and will pursue his routine practice of ensuring compliance. Independent of his personal reasons for

subsequent visits to this Premises as outlined above, Plaintiff intends to visit the Premises regularly to verify its compliance or non-compliance with the ADA, and its maintenance of the accessible features of Premises.

18. In this instance, Plaintiff, in Plaintiff's individual capacity and as a "tester", visited Premises, encountered barriers to access at Premises, and engaged and tested those barriers, suffered legal harm and legal injury, and will continue to suffer such harm and injury as a result of the illegal barriers to access and the ADA violations set forth herein. It is Plaintiff's belief that said violations will not be corrected without Court intervention, and thus Plaintiff will suffer legal harm and injury in the near future.

19. Plaintiff, in his capacity as a tester, will absolutely return to the Premises when either Defendant enters into an agreement to modify the Premises and/or an agreement to modify the policies and practices to accommodate individuals who have physical disabilities or otherwise advises Plaintiff that the barriers to access and discriminatory policies have been removed. The purpose of said visit will be to confirm said modifications and policy changes have been completed in accordance with the requirements of the ADA.

VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT

20. Plaintiff adopts and re-alleges the allegations stated in paragraphs 1 through 19 above as if fully stated herein.

21. On July 26, 1990, Congress enacted the Americans With Disabilities Act ("ADA"), 42 U.S.C. § 12101 et. seq. Commercial enterprises were provided one and a half (1.5) years from the enactment of the statute to implement its requirements. The effective date of Title III of the ADA was January 26, 1992, or January 26, 1993, if Defendant(s) have ten (10) or

fewer employees and gross receipts of \$500,000.00 or less. *See* 42 U.S.C. § 12182; 28 C.F.R. § 36.508(a).

22. Congress found, among other things, that:
 - a. some 43,000,000 Americans have one or more physical or mental disabilities, and this number shall increase as the population continues to grow older;
 - b. historically, society has tended to isolate and segregate individuals with disabilities and, despite some improvements, such forms of discrimination against disabled individuals continue to be a pervasive social problem, requiring serious attention;
 - c. discrimination against disabled individuals persists in such critical areas as employment, housing, public accommodations, transportation, communication, recreation, institutionalization, health services, voting and access to public services and public facilities;
 - d. individuals with disabilities continually suffer forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, failure to make modifications to existing facilities and practices. Exclusionary qualification standards and criteria, segregation, and regulation to lesser services, programs, benefits, or other opportunities; and,
 - e. the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our country is justifiably famous, and

accosts the United States billions of dollars in unnecessary expenses resulting from dependency and non-productivity.

42 U.S.C. § 12101(a)(1)-(3),(5) and (9).

23. Congress explicitly stated that the purpose of the ADA was to:
 - a. provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
 - b. provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; and
 - c. invoke the sweep of congressional authority, including the power to enforce the Fourteenth Amendment and to regulate commerce, in order to address the major areas of discrimination faced on a daily basis by people with disabilities.

U.S.C. § 12101(b)(1)(2) and (4).

24. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12101 et seq., provides: “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a).

25. “Congress passed the ADA in 1990 to fix a serious problem—namely, the seclusion of people with disabilities resulting in explicit and implicit discrimination. . . . The disabled population hoped that, as a result of the ADA, their lives would no longer be shaped by limited access and the inability to choose. . . . However, reality—a lack of compliance with the ADA and severe underenforcement of the statute—soon destroyed this hope.”¹

¹ Kelly Johnson, *Testers Standing up for the Title III of the ADA*, 59 *Cas. W. Res. L. Rev.* 683, 684 (2009), <http://scholarlycommons.law.case.edu/caselrev/vol59/iss3/6> (citing H.R. REP. No. 101-485, pt. 2, at 28-29 (1990); Elizabeth Keadle Markey, *The ADA's Last Stand?: Standing and*

26. More than thirty years “after the passage of the ADA, numerous facilities are still not compliant, leaving the disabled population in a second-class citizenship limbo. Title III of the ADA allows both the U.S. Attorney General² and private individuals³ to sue, but the rate at which [] the Attorney General [is] bringing suit seeking compliance is extremely low. The Department of Justice’s Disability Section, tasked with ADA enforcement, is understaffed[.]”⁴

27. Thus, “private suits by necessity represent the main tool for ensuring compliance with Congress’ intent in passing the ADA,”⁵ most of which suits “are brought by a small number of private plaintiffs who view themselves as champions of the disabled.”⁶

28. The U.S. Department of Justice (“DOJ”) supports this dynamic, recognizing that because it “cannot investigate every place of public accommodation,” “[p]rivate plaintiffs play an important role in enforcing the ADA[.]”⁷

29. Pursuant to 42 U.S.C. § 12182(7), 28 C.F.R. § 36.104 and the 2010 ADA Standards, Defendant’s Premises is a place of public accommodation covered by the ADA by the fact it provides services to the general public and must be in compliance therewith.

30. Defendant has discriminated and continues to discriminate against Plaintiff and others who are similarly situated, by denying access to, and full and equal enjoyment of goods,

the Americans with Disabilities Act, 71 Fordham L. Rev. 185 (2002) (arguing for a more lenient standard for standing under the ADA); and Samuel R. Bagenstos, *The Perversity of Limited Civil Rights Remedies: The Case of “Abusive” ADA Litigation*, 54 UCLA L. Rev. 1, 3 (2006) (discussing the need for private enforcement in Title III).

² 42 U.S.C. § 12188(b).

³ 42 U.S.C. § 12188(a).

⁴ Johnson, *supra* note 8.

⁵ *Betancourt v. Ingram Park Mall*, 735 F. Supp. 2d 587, 596 (W.D. Tex. 2010).

⁶ *Id.* (quoting *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1062 (9th Cir. 2007)); *D’Lil v. Best Western Encina Lodge & Suites*, 538 F.3d 1031, 1040 (9th Cir. 2008).

⁷ Statement of Interest of the United States of America, *ERC v. Abercrombie & Fitch Co.*, No. 1:09-cv-03157 (D. Md.), ECF No. 38, at *1 (July 6, 2010); *See also Hensley v. Eckerhart*, 461 U.S. 424, 445 (1983) (“All of these civil rights laws depend heavily upon private enforcement, and fee awards have proved an essential remedy if private citizens are to have a meaningful opportunity to vindicate the important Congressional policies which these laws contain.”).

services, facilities, privileges, advantages and/or accommodations located at the Premises, as prohibited by 42 U.S.C. § 12182 and 42 U.S.C. § 12101 et. seq., and by failing to remove architectural barriers pursuant to 42 U.S.C. § 12182(b)(2)(A)(iv).

31. Plaintiff has visited Premises, and has been denied full and safe equal access to the facilities and therefore suffered an injury in fact.

32. Plaintiff would like to return and enjoy the goods and/or services at Premises on a spontaneous, full and equal basis. However, Plaintiff is precluded from doing so by the Defendant's failure and refusal to provide disabled persons with full and equal access to their facilities. Therefore, Plaintiff continues to suffer from discrimination and injury due to the architectural barriers that are in violation of the ADA.

33. Pursuant to the mandates of 42 U.S.C. § 12134(a), on July 26, 1991, the Department of Justice, Officer of the Attorney General promulgated Federal Regulations to implement the requirements of the ADA. See 28 C.F.R. § 36 and its successor the 2010 ADA Standards ADA Accessibility guidelines (hereinafter referred to as "ADAAG"), 28 C.F.R. § 36, under which said Department may obtain civil penalties of up to \$55,000.00 for the first violation and \$110,000.00 for and subsequent violation.

34. Based on a preliminary inspection of the Premises, Defendant is in violation of 42 U.S.C. § 12182 et. seq. and the 2010 American Disabilities Act Standards et. seq., and is discriminating against Plaintiff as a result of, inter alia, the following specific violations that Plaintiff personally, physically encountered and observed at the Premises:

I. Northgate Shopping Center - 1401 N Belt Hwy:

Accessible Parking Spaces

Issue	1991 ADA Code	2010 ADA Code
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- | | | |
|--|--------|--------|
| a. Accessible parking spaces have a non-compliant surface slope. | §4.6.3 | §502.4 |
| b. Accessible parking space does not have an access aisle. | §4.6.3 | §502.2 |

Accessible Route to Building

Issue	1991 ADA Code	2010 ADA Code
c. There is no signage indicating van-accessible parking.	§4.6.4	§502.6
d. Accessible parking space does not have signage indicating accessible parking due to a lack of maintenance.	§4.6.4	§502.6
e. There is no van-accessible parking space provided.	§4.1.2.5. b	§502.2
f. Accessible parking space surface is broken creating grate opening.	§4.5.1	§502.4
g. Curb ramp projects into vehicular traffic lanes	§4.7.6	§406.5
h. Curb ramp has a non-compliant running slope.	§4.7.2	§406
i. Curb ramp has a non-compliant slope on the flare side.	§4.7.5	§406.3
j. Accessible route has a non-compliant cross slope.	§4.3.7	§403.3

35. To the best of Plaintiff’s belief and knowledge, Defendant has failed to eliminate the specific violations set forth in paragraph 34 herein.

36. Although Defendant is charged with having knowledge of the violations, Defendant may not have actual knowledge of said violations until this Complaint makes Defendant aware of same.

37. To date, the readily achievable barriers and other violations of the ADA still exist and have not been remedied or altered in such a way as to effectuate compliance with the provisions of the ADA.

38. As the owner, lessor, lessee or operator of the Premises, Defendant is required to comply with the ADA. To the extent the Premises, or portions thereof, existed and were occupied prior to January 26, 1992, the owner, lessor, lessee or operator has been under a continuing obligation to remove architectural barriers at the Premises where removal was readily achievable, as required by 28 C.F.R. §36.402.

39. To the extent the Premises, or portions thereof, were constructed for occupancy after January 26, 1993 the owner, lessor, lessee or operator of the Premises was under an obligation to design and construct such Premises such that it is readily accessible to and usable by individuals with disabilities, as required by 28 C.F.R. §36.401.

40. Plaintiff has retained the undersigned counsel for the filing and prosecution of this action. Plaintiff is entitled to have his reasonable attorneys' fees, costs and expenses paid by Defendant, pursuant to 42 U.S.C. § 12205.

41. All of the above violations are readily achievable to modify in order to bring Premises or the Facility/Property into compliance with the ADA.

42. In instance(s) where the 2010 ADAAG standard does not apply, the 1991 ADAAG standard applies and all of the violations listed in paragraph 34 herein can be applied to the 1991 ADAAG standards.

43. Pursuant to 42 U.S.C. § 12188, this Court is vested with the authority to grant Plaintiff's injunctive relief, including an order to alter the Subject Facility to make it readily

accessible to and useable by individuals with disabilities to the extent required by the ADA and closing the Subject Facility until the requisite modifications are completed.

WHEREFORE, Plaintiff demands judgment against Defendant and requests the following injunctive and declaratory relief:

- a. That this Court declares that Premises owned, operated and/or controlled by Defendant is in violation of the ADA;
- b. That this Court enter an Order requiring Defendant to alter its facilities to make them accessible to and usable by individuals with disabilities to the full extent required by Title III of the ADA;
- c. That this Court enter an Order directing the Defendant to evaluate and neutralize its policies, practices and procedures toward persons with disabilities, for such reasonable time so as to allow the Defendant to undertake and complete corrective procedures to Premises;
- d. That this Court award reasonable attorney's fees, all costs (including, but not limited to the court costs and expert fees) and other expenses of suit to the Plaintiff; and,
- e. That this Court award such other and further relief as it may deem necessary, just and proper.

Dated: March 23, 2026

Respectfully submitted,

ADA LEGAL TEAM, LLC

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