

The Unruh Civil Rights Act (Unruh Act) and the Disabled Persons Act

The Unruh Act and the Disabled Persons Act (DPA) entitle individuals with disabilities to full and equal access to public accommodations (Civil Code §§ 51 (b), and 54.1 (a) (1).) The Unruh Act provides broad civil rights protection: “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.” (Civil Code § 51 (b).) The DPA protects the civil rights of individuals with disabilities, and states: “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to ... places of public accommodation, amusement or resort, and other places to which the general public is invited.” (Civil Code § 54.1 (a)(1).)

As the federal government does with the ADA, California mandates specific requirements for building accessibility by statute (Government Code, § 4450 et seq.; Health and Safety Code, §§ 19956 and 19959): “All buildings constructed or altered after July 1, 1970, must comply with standards governing the physical accessibility of public accommodations.” These standards are set forth in Title 24 of the California Regulations. A violation of a Title 24 building standard that denies access to PWD has been found to constitute a violation of both the Unruh Act and the DPA (*Moeller v. Taco Bell Corporation*, supra, at p. 607). A violation of the ADA also constitutes a violation of both the Unruh Act and the DPA (Civil Code §§ 51 (f) and 54 (c).). After the ADA was passed in 1990, the California DPA and the Unruh Civil Rights Act were amended to provide that a violation of the ADA constitutes a violation of their provisions. Thus, a person whose rights are violated under the ADA may seek damages under the California statutes, and is not limited to injunctive relief as plaintiffs are under federal law (*Pickern v. Best Western Timber Cove Lodge Marina Resort* (2002) 194 F. Supp.2d 1128, 1131.)

The expansion of California law to include ADA violations had other effects. For example, Title 24 does not require facilities that predate its enactment to comply with its regulations unless and until the facility is altered (*Pickern*, at p. 1131, fn. 4.). In contrast, “[t]he ADA requires existing facilities to remove barriers to access so long as removal is readily achievable, regardless of whether the facility has been altered.” (Ibid). By amending the Civil Code to provide that a violation of the ADA is also a violation of the Unruh Act and the DPA, the Legislature authorized the filing of civil actions under state law to enforce the federal requirement that architectural barriers be removed where it is readily achievable to do so, and that alternative means of access be provided.