

JULY 2018 NEWSLETTER

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IS YOUR BUSINESS WEBSITE ADA COMPLIANT?

FIRM ANNOUNCEMENTS

A. AWARD

Pozzuolo Rodden are proud to announced that The American Registry honored Joseph R. Pozzuolo as “America’s Most Honored Professional 2018-Top 1%”. The American Registry identifies those who have won multiple honors from trade groups, peers, clients and the press. It culls through millions of awards in the world’s largest repository of recognitions.

B. BLOGS

1. The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website www.pozzuolo.com during the past month:
 - a. Employer Could Be Held Liable For Employee’s Conspiracy To Commit Fraud;
 - b. The Pros & Cons Of Permanent Life Insurance; and,
 - c. Pennsylvania Probate Laws

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estates and employment topics.

2. The following are a few of the family law blogs posted on our family law website www.pozzuolofamilylaw.com during the past month:

- a. Child Born 49 Years Prior To Execution Of Will Is Not An Omitted Child Under Probate, Estates & Fiduciary Code;
- b. Alimony Cannot Be Decreased Leading Up To Retirement; and,
- c. What Does Child Support Cover?

Please visit our website www.pozzuolofamilylaw.com for more information on these and other relevant family law topics.

Please visit our Facebook page to read all of our past and future blogs: Pozzuolo Rodden, PC

IS YOUR BUSINESS WEBSITE ADA COMPLIANT?

When the Americans with Disabilities Act (“ADA”) was enacted in 1990, the internet was a hard-to-explain concept, and the ability to surf an endless amount commercial businesses to buy goods or services was quite foreign. Title III of the ADA prohibits discrimination against individuals based upon a disability at places of public accommodation and mandates access to public accommodations for those with disabilities. Places of public accommodation include places like stores, restaurants, movie theaters and any other commercial place of business that is open to the general public. The ADA applies to companies that employ 15 or more employees.

Although Title III of the ADA does not specifically mandate the accessibility of commercial business websites for individuals with disabilities, in recent years, there has been a dramatic increase in the number of lawsuits filed against businesses because their websites are not accessible to individuals with disabilities. In 2017, plaintiffs have filed in excess of 800 Federal lawsuits arising from allegedly inaccessible websites, including a number of putative class actions. In 2017, there have been more than 50 Federal ADA websites accessibility lawsuits in Pennsylvania and in New Jersey, there has been 4 Federal lawsuits. Courts have taken varied positions relating to whether the ADA actually applies to the accessibility of websites, what types of businesses have to have accessible websites and what “accessible websites” actually means. However, a recent New York Federal court case held that the ADA and the state civil rights laws applied to the Black Arts Materials’ website and the court approved a class settlement agreement requiring the defendant to implement the Web Content Accessibility guidelines.

The United States Department of Justice (“DOJ”) is scheduled to issue official, binding rules and regulations relating to ADA compliance of websites and online content at some point in 2018. However, until the DOJ issues its official guidance regarding requirements for ADA compliant websites, you should consider adding accessibility features to your business website. The litigation relating to business website accessibility has often shown that websites can be made ADA compliant by using the aforementioned Web Content Accessibility Guidelines (“WCAG 2.0”), which provides guidance on how to make your website/web content accessible for those with disabilities. In fact, last year the first trial concerning website accessibility concluded in a Florida federal court and the defendant, Winn-Dixie grocery stores, was ordered to comply with WCAG. Some of the WCAG

accessibility features include using coding that allows for screen text reading programs to convert the text on a webpage to audio for visually impaired individuals, changing font sizes and colors, and allowing users to be able to change multimedia features. Additionally, in many settlement agreements in the cases relating to accessibility of websites, the DOJ has mandated compliance with the recommendations of the United States Access Board, which is a federal agency that encourages equality for individuals with disabilities.

It may be very important for your business to consult with a reputable web designer/consultant and legal counsel experienced in ADA compliance issues about the website accessibility of your business website. The DOJ is authorized to file lawsuits in Federal court in cases of “general public importance” or where a “pattern or practice” of discrimination is alleged and can impose penalties of up to \$75,000.00 for a first violation and up to \$150,000.00 penalties for subsequent violations. Also, a private party may recover equitable relief, such as a court order requiring the business to provide auxiliary aids and if the private party wins the lawsuit the federal law does allow the court to award reasonable attorney fees.

We will continue to follow developments relating to website accessibility under the ADA and we will provide an update in a future newsletter once the DOJ provides its guidance later this year.

If there are any legal questions you would like this office to answer in the future, please email the question to us at info@pozzuolo.com. Each month, the question with the most relevance to our privately held business clients, advisors, and friends will be answered in our monthly newsletter. The questions can relate to any of the areas practiced by this office including business planning and transactions, corporate law, commercial litigation, employment law and litigation, commercial real estate and development, construction law and litigation, estate planning, estate administration, tax and pension law, family law litigation.

PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

Corporate/Tax Articles

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor

- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

Estate Planning Articles

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.