



**Advocates for Individuals
with Disabilities Foundation**
Civil Rights Champions

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AID.org Foundation Public Relations
Advocates for Individuals with Disabilities Foundation
media@AID.org

AID.org Tasks Attorney General's Office to Investigate Over 9,000 Documented ADA Violators

Attorney General Opposes Enforcement of ADA Law

Phoenix, Arizona (October 12, 2016) – Advocates for Individuals with Disabilities - Foundation ("AID.org") has filed complaints on over 9,000 business locations with the Arizona Attorney General's Office along with supporting and verified evidence documenting their ADA violations.

AID.org has spent nearly \$200,000 in preparing and filing these complaints with the AG, in part, to demonstrate the Attorney General's Office's failure to investigate or enforce compliance with the ADA on a large scale for many years. The ADA was enacted in 1990, with various updates being made through 2010. But according to a recent survey conducted by AID, less than 5% of public accommodations in the county are in compliance with the ADA—just as to external ADA violations

According to the AzDA, the Attorney General, Mark Brnovich ("AG"), is charged with and required to investigate and enforce the AzDA to a greater extent than private parties. But Mark Brnovich's statements to media shows his true intentions *NOT* to enforce the civil rights of individuals with disabilities. Instead, his goal appears to be to protect business' ability to freely continue to discriminate against individuals with disabilities. To accomplish these ends, the AG has attacked civil rights associations such as, AID.org, publicly and through the filing of several hundred court documents. Brnovich, as part of his plan, has successfully pushed a judge to consolidate all 1,289 of AID's civil rights ADA enforcement actions into just one case so that the judge can control and dismiss all 1,289 of the cases at once, without requiring ANY of the offending ADA violations to be corrected (see <http://aid.org/ArizonaState.html>). Is the AG's maneuver a violation of the Federal ADA and State AzDA anti-intimidation, anti-coercion, and anti-interference laws? (See 42 U.S.C. §12203 and A.R.S 41-1492.10) Why? It's all about the votes, said an AID.org representative.

There are more lawbreaking business owners that vote and contribute to political campaigns than individuals with disabilities.

The Arizonans with Disabilities Act (“AzDA”) protects the rights of disabled individuals, granting them the same enjoyment of public and private facilities as those without disabilities. Individuals with disabilities’ right to equal access can be enforced through private litigation (as AID.org does) or by the AG. In the last 10 years, private enforcers of ADA and AzDA, also known as “Private Attorneys General”, have filed many thousands of civil rights enforcement actions against public accommodations while the AG has filed only 8 according to their own website, and none since 2013. That is less than 1 per year for the AG...

See <https://www.azag.gov/enforcement-actions/public-accommodation>

In recent court filings and TV appearances, the AG displayed either ignorance, disregard or disrespect of the law by falsely alleging that the Attorney General is the only one that is charged with filing these civil rights actions (see [Brnovich Interview](#)). So, let us review:

ARS 41-1492.08. Enforcement

- A. Any person who believes that any covered person or entity has engaged in, or that there are reasonable grounds to believe that any covered person or entity is about to engage in, any act or practice prohibited by [sections 41-1492.01 through 41-1492.05](#) or that any covered entity has not performed an act required by this article and its implementing rules may institute a civil action for preventive or mandatory relief, including an application for a permanent or temporary injunction, restraining order or other order.
- B. In the case of a violation of [sections 41-1492.02](#) and [41-1492.04](#) injunctive relief includes an order to alter facilities to make these facilities readily accessible to and usable by individuals with disabilities to the extent required by this article. If appropriate, injunctive relief also includes requiring the provision of an auxiliary aid or service, the modification of a policy or the provision of alternative methods, to the extent required by this article.
- C. A person may file a civil action in superior court not later than two years after the occurrence or the termination of an alleged discriminatory public accommodation practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory public accommodation practice or breach.
- D. Nothing in this section requires a person with a disability to engage in a civil action.

In addition, the following statements from the Arizona Court of Appeals have held to the contrary with the AG’s statements on the matters at hand:

“[The Arizonans with Disabilities] Act **separately** authorizes **both** an aggrieved individual and the Attorney General to institute civil actions to redress discrimination.” *Bailey-Null v. ValueOptions*, 221 Ariz. 63, 69, 209 P.3d 1059, 1065 (Ct. App. 2009)(emphasis added). “By the express terms of the regulations, an aggrieved party **need not avail herself of the administrative process provided by the Attorney General** before bringing a civil action for discrimination under the Act.” *Id.* (emphasis added). “Nothing in the Act or the regulations **provides for, much less requires**, any other administrative process as a prerequisite to a civil action.” *Id.* (emphasis added).

Whose side is Mark Brnovich and the State of Arizona on? The side of ending discrimination against individuals with disabilities or the side of the lawbreaking businesses so that they can continue to discriminate?

Even though the AG has had 26 years and many millions of dollars of taxpayer resources to cause ADA and AzDA compliance at public accommodations, it has failed to cause even 5% of them to become ADA compliant according to AID's survey and inspection of well over 9,000 local business. As noted above, the Office of the Attorney General has filed less than 1 civil rights ADA case per year in the past 10 years and ZERO during Mark Brnovich's term, but Brnovich has spent tax dollars to file several hundred court documents to convince a judge as part of his scheme to *stop* enforcement of the AzDA; and that number is growing rapidly.

The Difference between Attorney General Brnovich's Failure to Enforce ADA and the Success of AID's Enforcement Actions to enforce the ADA is striking.

In just a few months, AID.org, without any government funding or resources, has filed nearly 2,000 ADA enforcement cases and has spent approx. \$800,000 in court related filing fees and a total of approx. \$1,700,000 in its efforts to bring about ADA compliance. As a direct result of AID's efforts, hundreds of violators have agreed to comply with the noted ADA and AzDA violations and have entered into binding and enforceable settlement agreements. Each one contractually guaranteeing in writing to fix their noted ADA violations by agreed upon dates, which AID.org then follows up on to assure they have made the appropriate ADA and AzDA corrections. Additionally, as a result of AID's efforts and the now public awareness of potential legal enforcement actions, thousands of other businesses are taking note and *voluntarily* complying with the ADA without the need for anyone to file a lawsuit.

Brnovich, in his interview with unscrupulous and misleading media, falsely stated or insinuated that AID's intentions are not pure and that AID is not interested in ADA compliance but rather only in lining its pockets, the truth is far, far different... While ALL of AID's 315 settlements require timely ADA violation correction guarantees, most settlement agreements also include a negotiated cash component of approx. \$3,800 per case (approx. \$1,200,000 to date) to cover legal, filing, operational and further compliance actions, etc. Never \$10,000 per case and far less than media sources falsely portray. The reason that it is necessary for AID to receive proceeds as part of settlement is to partially subsidize the costs of bringing and managing widespread ADA enforcement actions. Doing so is very, very costly, and AID does not use any public tax payer's funds to investigate and enforce ADA laws. This is abundantly made clear by the fact that AID always has, currently is and anticipates it will continue to operate at a substantial loss reaching many hundreds of thousands of dollars. It is definitely clear that AID is NOT "enriching itself", "lining its pockets" or "just in it for the money" because AID hasn't and doesn't expect to make a profit. Do the math... (AID's expenses of \$1,700,000 minus \$1,200,000 collected settlement funds equals a current deficit of over \$500,000) Despite this fact, AID is willing to do whatever it takes to bring about rapid and wide spread ADA Compliance on a national level, regardless of any initial negative perception.

On the other hand, the AG is using public tax payer's funds to vigorously and publicly rally against AID in its efforts to stop AID's ADA-compliance actions. Brnovich is dead set on causing all of AID's civil rights ADA and AzDA enforcement lawsuits be dropped WITHOUT even requiring ANY of the lawbreaking business' correct their ADA and AzDA civil right violations which discriminate against

individuals with disabilities. Huh? After allowing 95% of business to continue to openly violate the ADA for 26 years and only filing 8 enforcement actions in the last 10 years, the AG now wants to carry out his plot to prevent private individuals and their advocates from enforcing the ADA and AzDA? This is just not right...

The Attorney General claims he is the only one charged with or allowed to enforce the civil rights law of ADA and AzDA...

That is just not true... any person may file these civil rights lawsuits. AID believes that left up to Attorney General Brnovich, the ADA and AzDA would never be enforced on any meaningful level, especially considering that Brnovich hasn't even filed 1 civil rights ADA enforcement action against a public accommodation. This inaction is appalling considering AID.org has discovered and documented well over 12,000 public accommodations with ADA or AzDA violations just by inspecting their parking lots in just 8 months. At the rate the AG has filed ADA cases, it would take over 12,000 years to complete what AID has done in just 8 months. Considering the fact that parking lots are typically symptomatic of more outrageous civil rights violations within the public accommodations, AID believes individuals with disabilities should not have to continue to put up with this preventable discrimination.

But there is a silver lining for AID.org in Brnovich's position...

Since the AG has now publicly stated they are charged with and are responsible to enforce the anti-discrimination ADA civil rights laws and has complained that AID.org has not filed any of its civil rights complaints with the AG, AID.org is now putting the AG to the task. AID.org has now filed over 9,000 complaints with the AG's office on public accommodations that AID.org has inspected, determined and documented violations of the ADA and discrimination against individuals with disabilities. These are separate and in addition to the thousand plus cases previously filed by AID that the AG is attempting to squash in favor of civil rights violating businesses.

According to "ARS 41-1492.09(A) Enforcement by the attorney general, "The attorney general shall investigate all alleged (ADA) violations... and then if a violation is found the AG shall attempt for a period of not more than thirty days to effectuate a conciliation agreement, and that if no conciliation agreement has been reached after thirty days, the attorney general shall file a conciliation in an appropriate court. Additionally, per Section C, "the court may assess a civil penalty of up to \$5,000 for the first violation and up to \$10,000 for any subsequent violation."

The Attorney General could now cover AID's litigation enforcement costs and greatly assist AID.org in its compliance goals...

Assuming that AID finds that the Attorney General actually fulfills his legal ADA enforcement obligations in regards to AID's submitted complaints in an acceptably timely manner, this could now take significant financial burden of ADA enforcement costs off of AID.org for the filing of 1,000's of new ADA enforcement lawsuits. Now much of AID's financial burden for the enforcement of the correction of ADA violations discovered by AID could be passed by AID to the AG and taxpayers.

AID.org will now not only be able to continue its current compliance enforcement efforts, but will be able to expand its efforts on a much larger scale by providing the AG with thousands of new fully documented ADA violation complaints each month for their enforcement as well. Working together with and or using the AG effectively as its enforcement arm, AID.org could now more rapidly achieve its Arizona ADA compliance goals just through private funding, without the need of settlement funds, all at the expense of the taxpayers. The voting-lawbreaking business will still be subject, according to the law, to pay fines of up to \$5,000 for the first violation and up to \$10,000 for any subsequent violation to the Attorney General, instead of the average negotiated settlement amount of about of \$3,800 to AID.

Over the next few months, AID.org will monitor the AG's actions and progress in regards to the 9,000+ new public accommodation ADA civil rights complaints that AID.org has submitted. If AID.org determines that the Attorney General is now taking ADA compliance seriously and is actively, aggressively, sufficiently and strictly enforcing total ADA compliance, then AID.org will no longer have a need to file any more ADA enforcement lawsuits itself in Arizona. AID.org's goal of advancing the time in which the US is compliant with the ADA *will* be achieved and AID.org welcomes the help of the AG in doing so. "The AG has stated they want to enforce the ADA. We welcome the opportunity to work together. They can contact us directly to settle our differences and focus on stopping lawbreaking businesses and wasting taxpayer dollars anytime.", said an AID.org representative.

Let's see if the Attorney General starts to support and enforce civil rights ADA laws, or if the Attorney General acts to help law breaking business owners who vote continue to discriminate against individuals with disabilities...

Join AID.org's fight against discrimination by becoming a FREE member and/or civil rights activist at www.AID.org/Membership.html .

AID's Attorneys available for comment:

Dennis Wilenchik (602) 606-2810

Peter Strojnik (602) 524-6602

About Advocates for Individuals with Disabilities Foundation ("AID.org")

AID.org, a 501c3 nonprofit company was formed in January 2016 as Civil Rights Champions in order to improve the lives of individuals with disabilities through charitable gifts, opportunities and the removal of equal access barriers for the over 43 million Americans who live with disabilities caused by one or more conditions.

AID.org sends warning notices to businesses and then acts as private attorneys general to ensure ADA compliance. AID.org's focus is on the most readily visible exterior equal access barriers which Federal, State and Attorney Generals have failed to enforce over the last 26 years. AID.org feels that these violations are a clear indicator of interior ADA violations, which we hope the violating business voluntarily correct.

"For the ADA to yield its promise of equal access for the disabled, it may indeed be necessary and desirable for committed individuals to bring serial litigation advancing the time when public accommodations will be compliant with the ADA." AID.org is committed to bring serial litigation and is primarily self-funded through litigation settlement agreements and private funding.

Those with disabilities and their associates can request assistance and grants online at www.AID.org. To schedule an interview with the AID.org Foundation, please email media@AID.org.