

Court of Appeal Rules That Successor in Interest of Disabled Person Allegedly Killed by
an Unlawful Barrier Has Standing to Pursue Disability Lawsuit for Injunctive Relief

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As many are aware, a successor-in-interest does not have standing in a Federal Court to bring an Americans with Disabilities Act ("ADA") claim for injunctive relief. See, City of Los Angeles v. Lyons (1983) 461 U.S. 95. But whether or not a Plaintiff has standing to commence an ADA claim in a California State Court is, of course, determined by state law. In the recently published decision, Saurman v. Peter's Landing Property Owner, LLC (2024) Westlaw 354809, the Fourth Appellate District, Division 3, issued an Opinion that a wrongful death plaintiff has standing to sue for injunctive relief in regard to an alleged violation of the ADA, as well as California's disability access laws, including the UNRUH Civil Rights Act ("UNRUH") and the Disabled Persons Act ("DPA").

The Saurman case concerned a trip and fall accident at a restaurant. On September 14, 2014, Kathleen Saurman, 60 years old, and suffering disabilities, went with her husband and two friends to the Pelican Isle Waterfront Dining restaurant. As Ms. Saurman was walking to her table, she fell on a small stairway leading to a slightly elevated area of the dining room. The next day, Ms. Saurman underwent surgery for a broken hip, and four days later died from an infection.

Robert Saurman, her husband, filed a wrongful death lawsuit against the restaurant's owner. Later on, Mr. Saurman filed a separate action based on disability access against the owner of the restaurant, and then added a later owner of the restaurant, which had acquired the restaurant in August 2017 (Mr. Saurman amended the disability access complaint to add the new owner as a Defendant in 2019).

In January 2022, the new restaurant owner filed a Motion for Sanctions, arguing that the new restaurant owner had nothing to do with the 2014 accident. Mr. Saurman's counsel opposed the Motion, arguing that Mr. Saurman had standing. In February 2022, the new restaurant owner filed a Motion for Summary Judgment. Mr. Saurman's counsel made similar arguments in opposing the Motion for Sanctions and also argued that the stairway had never been changed. The Motion for Summary Judgment was granted. The Trial Court also granted the new restaurant owner's Motion for Attorney's Fees, granting \$98,852 in sanctions against Mr. Saurman's counsel.

On appeal, the Court of Appeal ruled that the Trial Court erred in granting the new restaurant owner's Motion for Summary Judgment and abused its discretion in ordering attorney's fees be paid. The Court of Appeal ruled that, under California law, a successor

in interest to a disabled person's claim, in this case a wrongful death plaintiff, has standing to pursue a claim for injunctive relief. In its Opinion, the Court of Appeal acknowledged that a successor in interest such as Mr. Saurman would not have standing in a Federal Court to commence an ADA claim for injunctive relief (because the risk of future injury to Ms. Saurman would have been required) but noted that the issue of whether or not a party has standing to bring an ADA claim in state court is a question of state law rather than federal law. In that regard, the Court went on to note that California courts are not bound by the case-or-controversy standing requirement of the federal constitution. The Court then expressed that, because the instant lawsuit was filed in the Orange County Superior Court, it should apply California's broader "personal interest" standing rules and found that Mr. Saurman's status as a successor in interest meant that he had a sufficient "personal interest in the litigation's outcome" to pursue an action for injunctive relief.

The Saurman case is a case of first impression and may be considered by the California Supreme Court. In the meantime, the Saurman case holds that, at least in the context of a wrongful death lawsuit, a Plaintiff has standing to sue the establishment owner where the disability access claim occurred, even if the owner was not the owner of the property at the time of the alleged accident.

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