



### D15 Win in Court - Analysis of a Home Environment to Make It Wheelchair Accessible

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After attending this presentation, attendees will understand how to: (1) make the case in court for or against the extent and construction costs of wheelchair-accessible home renovations; (2) determine what is needed to base the case; (3) evaluate the home, determine what is required to make it accessible and usable, and design renovations; (4) Write an effective report; and, (5) know what exhibits are needed.

This presentation will impact the forensic science community by providing a technically correct and legally solid path to make a successful claim for plaintiff or defense for defendant in court for compensation to make necessary accessibility changes to the home of a claimant injured or diseased.

**Making the case:** Determine the nature of the client's needs as determined by the data of medical reports, life-care plans of both plaintiff and defendant, existing home conditions (floor, site plans, and photographs), and local costs of construction. Life care plans are typically divergent in their evaluations of the disabled client, and thus possibly quite different in evaluating the disabled client's needs, both currently and especially in the long term or end of life evaluation. This could have significant effect on what modifications are determined to be needed in order to make the client's home accessible and usable.

**What is needed to base the case legally:** Review the data for consistency, engage expert opinion by an architect experienced in both the disability needs of the client and residential design, and write a report supporting the case in narrative and graphic (drawings & photographs) form and include defensible construction estimates consistent with local building conditions. Where significant divergence is found between plaintiff and defendant, it is important to try at that point to obtain agreement between the life care planners as to what is actually required for the disabled person. If agreement cannot be reached by the life care planners, then design and cost estimates for construction must proceed on the basis of either the plaintiff or the defendant, whoever the expert is working for. This situation will put the onus of decision on the court and will necessitate a trial by judge or jury to determine the outcome.

**Design:** It is important to engage an experienced architect whose practice demonstrates expertise in design for persons who have disabilities, and who can reliably prepare designs and construction cost estimates for the locale in which the claimant's home is situated. If engaged at an early stage, the architect may contribute valuable guidance as to what data must be acquired and may advise the attorney as to the best path of strategy to win. The architect should be able to technically defend or oppose a case made by his or her testimony in deposition or at trial. The architect should be conversant, experienced, composed, and articulate in the sometimes adversarial atmosphere of legal testimony.

**Writing the report:** The expert report in support of or to defend against the claim must consist of accurate, comprehensive, and persuasive narrative, supported by clear, descriptive graphic floor plan drawings and credible construction cost estimates predicated upon local conditions.

**Exhibits:** Exhibits need to be brief and cogent in their narrative and clear in their presentation. The narrative should be tied, issue by issue to a set of graphic documents (drawings) and to an itemized list of construction items. An example case will be presented as representative and will be included in the handout.

**Wheelchair, Injury, Plaintiff or Defendant**