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ADA fluid requirements take shape as fans in wheelchairs file suit

SPORTS LAW

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The last time I looked, the New York Yankees were closing in on a double-digit lead in the AL East. Bernie Williams was leading the league in hitting. Derek Jeter was coming off a month in which he'd made the covers of two major sports magazines. In short, it's never been more fun being a Yankee fan — unless you're in a wheelchair.

For the wheelchair-bound, being a Yankee fan means being inconvenienced when visiting Yankee Stadium. George Steinbrenner apparently agrees because he settled a dispute between the Yankees and three disabled fans and the Justice Department. In response to a lawsuit filed last year complaining of inadequate facilities for the disabled at Yankee Stadium, Steinbrenner lowered prices 40 percent for fans in wheelchairs and agreed to make tickets available over the Internet and via Ticketmaster. The settlement is temporary at best. The plaintiffs still want something done about the number, location and sight lines of handicapped seats.

They're not alone. Disabled fans across the country are seeking the same treatment enjoyed by nondisabled people — concourses they can negotiate, concession counters they can reach and seats with unencumbered sightlines.

In the past three years, at least eight such lawsuits have been filed against sports venues or franchises. A ninth dispute involving the Chicago Cubs was settled with the team pledging major renovations to Wrigley Field.

Claims are almost always discriminatory of disabled fans under the 1990 Americans with Disabilities Act. The ADA sets out a lengthy list of require-

ments applying to stadiums built after the act went into effect. To list a few: At least 1 percent of seating capacity must be suited for fans in wheelchairs. A companion seat must be provided next to each wheelchair location. When there are more than 300 wheelchair slots in a venue, they must be in more than one location.

The ADA requires less of older stadiums. In those that haven't been modified since the act, the ADA requires modifications that are "readily achievable," a standard interpreted many ways. In an older stadium that has been updated, the requirements can be equally subjective. The basic standard is that updated sections need to comply fully with the ADA while older, unimproved sections don't.

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Stadium operators and teams generally want to be on the right side of the disabled access issue. But there's a price — often, a stiff price. First, there are lawyers to pay. Next, there's the expense of renovation. And finally, there's a somewhat overlooked cost — the revenue lost when seats for nondisabled fans are removed. For every accessible seat put into a stadium, on average three regular seats are lost.

"A wheelchair location takes up a lot of room," said Kevin McGuire, a disability

access consultant who is working on several new construction projects. "To gain that room, you're going to lose seats nondisabled fans are sitting in."

McGuire, who has been disabled since being hit by a drunken driver when he was seven years old, estimates that the construction of one disabled-seating platform can run up to \$200,000.

"There's definitely a tension" between improving seating for the disabled and lost revenue for the removal of regular seats, said Jack Blair, vice president and general counsel of the San Francisco Giants. "But the way we view it, it's the law. It's what's required."

At Pac Bell Park, the Giant's new downtown ballpark opening next year, the team is going all out to welcome disabled fans. They'll be able to view the game from behind the dugout, in front of the press box, behind the plate and from luxury suites. "It's the most advanced distribution of wheelchair seating we're aware of," Blair said.

If the last 10 years have proved anything, it's that the ADA isn't static. It is changing as case law fills in gaps and other requirements are better defined. As an example, the act requires that wheelchair users receive lines of sight that are "comparable" to seats available to others attending the event. The Department of Justice sought to refine that in 1994, taking the position that under the act wheelchair users were entitled to line of sight — when spectators in front of them are standing. That interpretation was upheld in a 1997 case brought against the MCI Center in Washington, D.C.

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