



Posted on Mon, Oct. 04, 2010

Court backs man in wheelchair who sued to enjoy ‘Chipotle Experience’

By DIANE STAFFORD
The Kansas City Star

Coming to a Chipotle near you: a lower counter to help more people see their burritos being made.

In a case generating national attention, a federal appellate court last month ruled that Chipotle Mexican Grill's 45-inch-high wall screening its food-preparation counter was too high for Maurizio Antoninetti, who uses a wheelchair.

He couldn't watch his food being prepared, so he was denied the full "Chipotle Experience."

The decision applies only to the Western states covered by the 9th U.S. Circuit Court of Appeals, but Chipotle already has begun lowering the 45-inch walls nationwide. It declined to discuss the cost.

Under the Americans with Disabilities Act, U.S. Justice Department guidelines set 36 inches as the maximum height for such restaurant purposes.

A company spokesman for the restaurant chain, which has about 1,000 locations, said Chipotle "has always worked hard to be accessible to all of our customers, including those with disabilities, and remains compliant with ADA provisions."

The act, passed 20 years ago, requires equal treatment or accommodations for people with disabilities.

Like many employers, Chipotle has long provided accommodations for those with disabilities.

In Chipotle's case, that included an official disability policy of bringing ingredients to the tables of diners with disabilities and doing tableside preparation.

But Antoninetti, a San Diego State University employee who has a history of filing ADA-related lawsuits, sued because he "could not watch the food-service employee combine those ingredients to form his order," unlike a standing person who was tall enough to see the ingredient trays.

The food preparation counter itself is 34 to 35 inches high.

Lawyers, including those at the Kansas City law firm of Stinson Morrison Hecker, have been prompt about putting their clients on alert.

Places of public accommodation "need to consider the implications of this case and whether disabled customers are allowed to 'experience' their goods and services without impermissible barriers," the Stinson briefing said.

The U.S. Labor Department, which observes October as National Disability Employment Awareness Month, notes that 54 million Americans have some form of disability.

Providing people who have disabilities improved access to the workplace remains a challenge, said Labor Secretary Hilda Solis, but the government is committed to "continue building a long-term infrastructure" to improve access.

That Chipotle should have to retrofit its restaurants raised some hackles, even among some people sympathetic to ADA concerns.

When news of the 3-0 appellate panel decision broke in the San Francisco Chronicle, one online reader opined, "Good Lord, people are complaining because they can't see a taco, get a life."

Others complained about Antoninetti's litigation history. A blog post by Walter Olson, a senior fellow at the Cato Institute's Center for Constitutional Studies, called it "an open scandal ... that serial complainants and their lawyers carve out profitable practices ... leveling ADA complaints that they then settle for cash."

The appellate court awarded Antoninetti his attorney's fees and damages but remanded the case to a district court to determine the reasonable and appropriate amounts.

For its part, Chipotle considers the court decision moot.

In addition to already retrofitting its California locations, "we are incorporating the same design into newly built restaurants and major remodels around the country," said spokesman Chris Arnold.

To reach Diane Stafford, call 816-234-4359 or send e-mail to stafford@kcstar.com.

© 2010 Kansas City Star and wire service sources. All Rights Reserved. <http://www.kansascity.com>