



# LEGAL HOTSPOTS

The Essentials Every Hotelier Should Know  
Meet the Money 2019

# Hotel Unions Looking for New Organizing Tools

Marta M. Fernandez, JMBM

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- UNITE HERE continues to look for new and creative ways to expand its membership
- Neutrality Agreements – Imposing all-encompassing “Labor Peace” requirements through friends in government
- Expanding accretion and successorship clauses with long-arm reach
- Local Ordinances to entice workers and threaten hospitality industry employers: Living Wage, Panic Buttons, Housekeeping Quotas
- Joint Employer status between Owner/Management/Franchise

# New NLRB Rules Ripe for Union Organizing

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## Boeing Company Ruling makes basic seemingly neutral work rules unlawful as interfering with employees' right to organize

- Prohibiting use of confidential company information such as salaries and payroll information: **unlawful**
- Prohibiting the sharing of employee handbook with 3<sup>rd</sup> parties: **unlawful**
- Prohibiting use of company computers to disseminate information that is not in support of company objectives: **unlawful**
- Prohibiting access to premises on off hours: **unlawful**

# Easy Save: Room Rate Posting Violations

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## Key Points:

- California (and most other states) requires that a statement of the room rate or range of room rates be posted
- In California, Civil Code §1863 requires both the rate and the code section to be posted:
  - By “every keeper of a hotel, inn, boardinghouse, or lodginghouse”
  - In “a conspicuous place in the office or public room” and
  - In “every bedroom”
- Cannot charge more than the posted rate
- Violations are statutory:
  - \$100, or
  - 3 times the amount of the sum charged in excess of what he is entitled to, whichever is greater
  - Guest must give notice within 30 days of charge
- Class Actions:
  - Plaintiff’s trolls are looking for violations
  - They seek to form a class of all revenue received by the hotel within the 30 day notice period
  - Attorneys’ fees

# California Consumer Privacy Act of 2018

Robert E. Braun, JMBM

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## Key Points:

- Authorizes enforcement actions by the California Attorney General
- Authorizes private rights of action if data is compromised, ***with statutory damages***
- You probably need to comply with CCPA *even if you're not subject to it*
- **Consumer Rights:**
  1. The right to know what personal information is being collected, what it is being used for, whether it is being disclosed or sold
  2. The right to “Opt-Out” of allowing a business to sell their personal information
  3. The right to have a business delete their personal information

# Title III of the Americans with Disabilities Act: What Places of Lodging Need to Know

Martin H. Orlick, JMBM

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**What – me worry?**

**Alfred E. Neuman**

*Mad Magazine*



# Title III of the Americans with Disabilities Act: What Places of Lodging Need to Know

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Over **26,000** ADA lawsuits have been filed in the U.S. Federal Courts since 2000

- ADA Litigation hotspots: California, Florida, Pennsylvania, New Jersey, and Texas account for more than 80% of all lawsuits
- Over 11,000 cases in California federal courts
- Private, serial, hotel litigant has earned approximately **\$2.8 million in damages, tax-free** by filing hundreds of complaints over several years, often many in a single day

There is currently ADA litigation focused on websites, in two distinct categories:

- Access to websites & mobile applications by the visually impaired
- Information & reservations systems provided by places of lodging
- Many plaintiffs file these lawsuits without ever visiting the hotel property, from the comfort of their own couch



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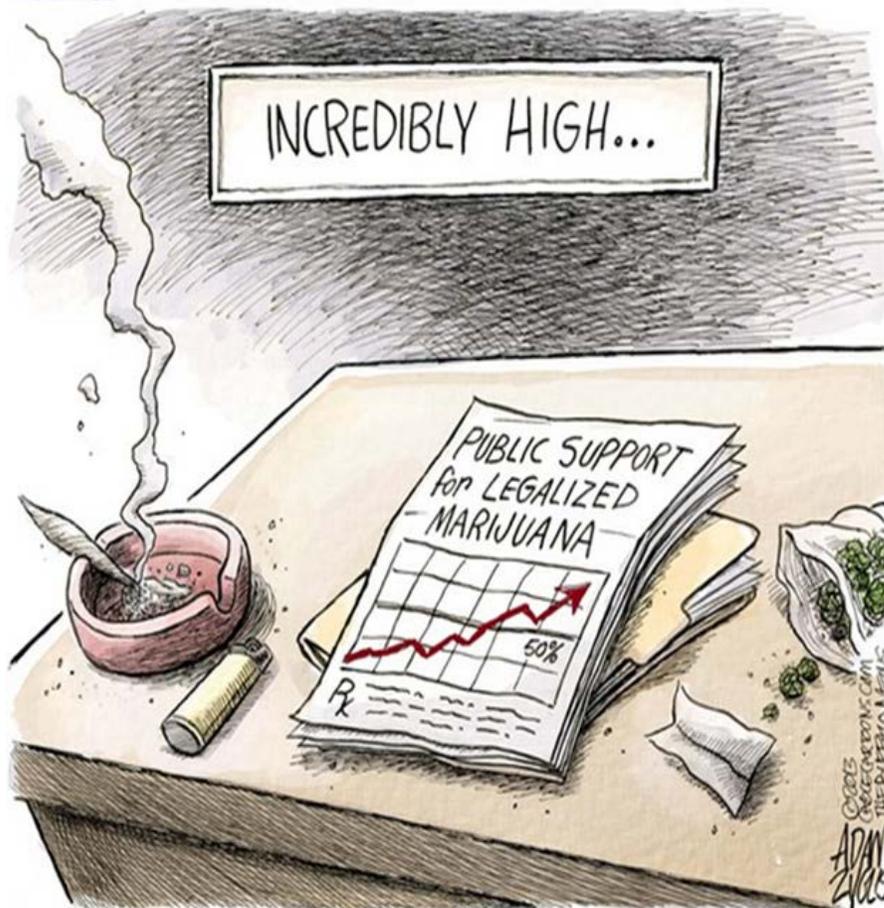
## Accessibility Litigation

- **28 CFR § 36.302(e)(1) requires places of lodging to:**
  1. Ensure individuals with mobility disabilities can reserve accessible guest rooms during the same hours and the **same manner** as individuals who do not need accessible rooms
  2. Identify and **describe accessible features** in the hotel and guest rooms on their systems of reservation
  3. Ensure accessible guest rooms are **held** for use by individuals with disabilities, and are the **last** of the specific room type rented
  4. **Hard block** accessible rooms, and
  5. **Guarantee** that accessible guest rooms reserved are held for reserving customer

# Cannabis & Hotels: What You Need to Know

Seena Max Samimi, JMBM

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## Contents: Top 3 Things to Know

1. What is Marijuana Tourism?
2. Know How Government Regulations Work:
  - a. Federal
  - b. State
  - c. Local
3. Specific Things To Be Aware Of in the Industry

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## Marijuana Tourism

1. **Demographics:** Cannabis will attract a certain demographic (*maybe not who you think*), but may repel others
2. **Boutique vs. Chain:** A branded property that allows the use of marijuana **may cost their sister hotels business** from more conservative guests



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## Marijuana Tourism



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## Know the Layers of Regulations: **FEDERAL**





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## Know the Layers of Regulations: **LOCAL**

Practically speaking, local regulations are the most important & relevant for your business



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## Cannabis-Specific things to be aware of:

1. **Specific Rules:** Even cannabis-friendly hotels often have strict rules about where you can use (no rooms, rooftop only, balconies only, etc.)
2. **Ancillary Costs:** Insurance premiums, compliance/permitting, cleaning/odor problems, liabilities
3. **Insurance Issues:** Something to triple-check and see the effects on coverage
4. **Money Issues:** How to take payment from cannabis lessees; banking effects
5. **CBD:** Some hotels are offering CBD spa treatments & CBD infused drinks
6. **Cannabis vs. Alcohol:** Cannot sell both on the same premises



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