
Theodore L. White



Partner
(504) 593-0604
twhite@dkslaw.com



Location

New Orleans, LA

Practice Areas

- Americans with Disabilities Act Compliance
- Construction
- Insurance Coverage
- Labor & Employment
- Professional Liability
- Toxic Tort & Environmental

Jurisdictions

- Louisiana

Ted White is a partner in the New Orleans law firm of Deutsch, Kerrigan & Stiles. His practice centers primarily on construction-related matters, Americans with Disabilities Act, Title III compliance and toxic tort & environmental and property damage defense.

After graduating from Tulane School of Architecture in 1980, he worked in a number of architecture firms in New Orleans until he joined Deutsch, Kerrigan & Stiles in 1986. Although now practicing law, his commitment to the profession of architecture continues. Mr. White has been a member of the American Institute of Architects National Board of Directors as well as the New Orleans Chapter and Louisiana State Boards of the AIA. He has also served on numerous AIA committees, local and national, including legislative affairs, licensing, treasurers advisory, intern/associate, membership and the universal design/accessibility task force. His continuing involvement with the professional aspects of architecture has proven invaluable in his practice.

Since joining the firm, Mr. White has been involved with a full range of construction-related disputes varying in claim size from a few thousand to several million dollars. He has defended architects on insured E&O claims, defended contractors on breach of contract and negligent construction claims and represented owners on breach of contract and redhibition claims. Mr. White is a strong proponent of alternative dispute resolution in the construction setting and sits on the American Arbitration Association's Panel of Construction Neutrals.

Mr. White's architectural background also serves him well in his role as national ADA counsel for several national hotel flags. He also advises numerous other public accommodations on the Act's requirements preparatory to major renovations and in claim resolution. He has been involved in resolving a number of ADA claims made both by private individuals and through the U. S. Justice Department and is familiar with the DOJ's investigative and prosecution procedures.

Mr. White has authored the Legal Issues column for the monthly newsletter of AIA/New Orleans and he co-authored, with other members of the firm's construction section, the "Construction Industry Insurance Handbook" (he wrote the chapter on design professional's liability), published by John Wiley & Sons. He also is author of numerous articles relating to the ADA, architectural practice and construction disputes, and has spoken on many occasions including appearances before the AIA's national convention, the Institute for International Research (Conference on Hospitality Finance) and the Associated Building Owners and Developers and the Academy of Hospitality Industry Attorneys.

Professional Activities and Honors

American Bar Association

- Forum on the Construction Industry
- Tort and Insurance Practice Section
- Litigation Section

Louisiana State Bar Association

Louisiana Association of Defense Counsel

Defense Research Institute

American Institute of Architects (AIA)

- Universal Design/Accessibility Task Force, 1996-Present

- Licensing Committee, 1996-98
- Membership Committee, 1996-97
- National Board of Directors, 1994-96
- Treasurers Advisory Committee, 1995
- Associate Member, National, State and Local Chapters
- Board of Directors AIA/Louisiana and AIA/New Orleans
- Co-Chair, Legislative Affairs Committee, AIA/New Orleans

American Hotel & Lodging Association

- Accessibility Task Force, 1999-

Academy of Hospitality Industry Attorneys

Education

J.D., Loyola University, 1989
M.Architecture, Tulane University, 1980
B.A., University of the Pacific, 1975
A.A., Franklin College, Lugano, Switzerland, 1973

Representative Works

ADA Title III

Mr. White obtained a significant defense ruling in two related Americans with Disabilities Act, Title III cases in the Northern District of California. The cases involve allegations of non-accessibility at the Ritz-Carlton hotel in Half Moon Bay. Mr. White represents the current owner of the hotel, SHC Half Moon Bay, LLC.

Two plaintiffs filed separate suits against the current owner and operator of the Ritz-Carlton, which opened ten years after the ADA became law, alleging the existence of various access barriers at the hotel. The current owner, SHC, purchased the hotel from the original developer three years after the hotel opened. The plaintiffs contend that SHC, as the current owner of the hotel, must bring the hotel into new construction compliance under the ADA because the hotel was designed and constructed after the effective date of the Act. SHC countered that since it did not participate in the original design and construction of the hotel it could not be held liable for violations of the Act's new construction provisions. SHC's position was that it had readily achievable barrier removal obligations and not new construction obligations. Readily achievable barrier removal is a considerably lower standard than new construction requiring only that access barriers be removed when it is easily accomplished without much difficulty or expense. The difference between the two standards in terms of the hard cost of construction and overall financial impact to hotel operations can be significant.

Mr. White argued that since the current owner did not participate in the original design and construction of the hotel that it did not discriminate against the plaintiffs under the new construction provisions of the ADA. Many thought this to be a novel argument without much chance of success as there has only been one reported case on this issue during the 20 year history of the ADA. Fortunately, the Court agreed with SHC's position and ruled that because the current owner had no involvement in the original design and construction of the hotel the plaintiffs could not sue it for "the hotel's alleged nonconformity with the 1991 standards for design and construction." In other words, the Court found no successor liability under the new construction provisions of the Act when the subsequent purchaser had no involvement in the building's original design and construction. This is a major victory for owners, operators, lessors and lessees who purchase existing properties as their ADA liability should now be limited to readily achievable barrier removal rather than having to bring the existing building up to new construction standards.

Speeches and Presentations

ADA Panel

Mr. White was a panelist on this topic at the Hospitality Asset Managers Association Fall 2011 Meeting; San Antonio, TX; September 21-22, 2011.