



**LEGISLATION & PUBLIC
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March 24, 2017

Honorable Adam Gray
California State Assembly
Capitol Building, Room 3152
Sacramento, CA 95814

RE: AB 913 (GRAY) – OPPOSE

Dear Assembly Member Gray:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, strongly opposes AB 913. This bill is scheduled for hearing in the Assembly Judiciary Committee on March 28, 2017.

AB 913 expands AB 1521 (Assembly Committee on Judiciary, 2016) to create a new “high frequency litigant” standard, preventing individuals from filing any new litigation without first obtaining a leave from the judge. Specifically, this measure imposes substantive and procedural burdens—including authority for the imposition of a pre-filing order—on plaintiffs who file 15 or more construction-related accessibility claims in 12 months.

This Bill Imposes Unconstitutional Burdens on People with Disabilities

AB 913 violates guarantees of due process of law and the right of access to the courts assured by the state and federal Constitutions. Due process is a fundamental, constitutional guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and an opportunity to be heard before the government acts to take away any individual rights. AB 913 treats people with disabilities who are enforcing their rights as a

“suspect class” and actually limits their access to the courts. It requires a judge to make a pre-filing determination on whether the case has merit based on nothing but the amount of times someone has filed a lawsuit to enforce their rights.

The merits of a case are determined by a fair objective examination of the evidence. Pre-filing determinations will lead to uninformed decisions because the only information available for the judge to make their decision will be how many lawsuits the litigant has filed in the last 12 months. The amount of lawsuits a person has filed has no relevance on whether or not the current claim before the judge has merit.

This Bill Treats People with Disabilities Differently Than Other Protected Classes

This bill treats people with disabilities as second class citizens by targeting them for additional procedural and legal barriers to enforce their civil rights to access public accommodations. No other protected class has to get leave of court before filing a claim to enforce their civil rights. Further, there is no evidence to suggest these additional procedural hurdles are necessary and no documentation to show that “high frequency litigants” are bringing frivolous claims. If the claims have merit, people with disabilities should not be treated differently and subjected to additional hurdles.

This Bill is Premature and Unnecessary

In recent years, much work has been done to strike a delicate balance and address claims of purported abuse by the business community and to protect the civil rights of individuals with disabilities. Measures enacted include AB 1608 (Corbett, 2008) and AB 1186 (Steinberg, 2012). Further, last session, the Legislature passed AB 1521 (Assembly Committee on Judiciary, 2016) and SB 269 (Roth, 2016). The author has not provided any compelling data or indicated any changes in circumstances since last session that justify further limits on the ability of people with disabilities to enforce their civil rights. There is no reason to enact yet another bill restricting the enforcement of disability rights laws.

For these reasons, we oppose this bill. Please contact me if you have any questions about our position.

Sincerely,

A handwritten signature in cursive script, reading "Evelyn M. Abouhassan". The signature is written in dark ink and is positioned above the printed name and title.

Evelyn Abouhassan
Senior Legislative Advocate
Disability Rights California

cc: Adam Capper, Legislative Director, Office of Assembly Member Gray
Honorable Chair and Members, Assembly Judiciary Committee
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee