

# Suit Targets Access for the Disabled at Taco Bell

By CLAIRES HOFFMAN  
*Times Staff Writer*

Every week for almost two decades, Edward Muegge walked to the Taco Bell near his office in Santa Rosa, Calif., looking forward to his usual lunch-time burrito.

In 2000, injuries from a long-ago car accident finally forced the junior college teacher to use an electric scooter to get around. And the first time Muegge rolled his scooter into his local Taco Bell for lunch, he found the path to the counter blocked by the maze of line dividers — metal fencing used to keep waiting lines orderly.

"It was one of the most uncomfortable public places I have been," recalled Muegge, who eventually — and reluctantly — cut to the front of the line to place his order.

Muegge is now one of four lead plaintiffs in a lawsuit filed against Taco Bell alleging that the restaurant chain persistently violated the federal Americans With Disabilities Act and state disability access codes at its 220 company-owned restaurants in California. The suit, filed in December 2002 in federal court in San Francisco, was granted class-action status by U.S. District Judge Martin J. Jenkins in February 2004, creating a potential pool of thousands of plaintiffs.

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## California

# Suit Cites Access Issues at Taco Bell

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Taco Bell denies the suit's allegations, saying it has made every effort to follow the applicable laws.

"All of our restaurants comply with the ADA and state regulations," said Laurie Schalow, a spokeswoman for Irvine-based Taco Bell.

But the plaintiffs describe the nation's largest Mexican fast-food chain as out of sync with basic access codes, citing what they allege are metal line dividers that are too narrow, soft-drink stations that are out of reach and doors that are too heavy for wheelchair users to open.

"It was hard to want to do business again with them," said plaintiff Katherine Corbett, recalling the day in 2002 when she and her daughter Mitsuko, both in wheelchairs, visited a Taco Bell in Richmond. The pair had to wait off to the side until someone at the counter noticed them, Corbett said, and then had to eat at separate tables, divided by the fixed plastic seating.

When they left, Corbett recalled, Mitsuko turned to her and said: "I don't like this. It isn't fair."

Such complaints aren't new to Taco Bell. In 2000, the company settled a similar lawsuit in Colorado, agreeing to modify the 40 company-owned restaurants in the state by the end of 2001 and ensure that all new restaurants it opened in Colorado would comply with accessibility requirements.

Tim Fox, the Denver lawyer who was lead counsel in the Colorado case, said that after the settlement, he began hearing similar complaints about Taco Bell restaurants in California.



**PLAINTIFF:** Katherine Corbett, left, with daughter Mitsuko, is one of four lead plaintiffs in a suit against Taco Bell accusing the fast-food chain of violating the Americans With Disabilities Act.

ANNE DOWIE For The Times

Joined by wife and law partner Amy Robertson and a cadre of Bay Area civil rights lawyers, Fox decided to sue in an effort to force Taco Bell to make its California restaurants more accessible to disabled customers.

California is one of a handful of states that allow disabled customers to seek sizable monetary damages from businesses that are found to violate the state's disability-access codes. Fox said the plaintiffs were seeking \$4,000 in damages for each visit by an individual using a wheelchair or scooter to a company-owned Taco Bell restaurant in California since Dec. 17, 2001. (The more than 500 franchisee-owned Taco Bells in California aren't included in the suit.)

Oakland attorney Brad Seligman joined the case against Taco Bell as a co-counsel early last year. Almost a decade ago, Seligman reached a settlement with United Artists Theatres in which the company agreed to pay \$500,000 in damages, still considered one of the largest settlements in an ADA case. He is lead counsel in a high-profile class-action sexual discrimination lawsuit against Wal-Mart Stores Inc.

"What attracted me was the size of the case, the potential for damages and the fact that Taco Bell has been a recidivist," said Seligman, whose nonprofit civil rights fund had given a grant to Fox to pursue the Colorado case.

Taco Bell, owned by Yum

Brands Inc., the Louisville, Ky., dining conglomerate that also owns the KFC and Pizza Hut chains, contends that it hasn't broken any laws and that access for all customers is a priority.

For now, the two sides have adopted a cooperative approach, agreeing to have court-appointed inspector Bob Evans, an accessibility consultant from San Diego, evaluate how each of the California restaurants complies with more than 600 structural issues that can affect disabled customers.

The two parties will then spend the next few months in pretrial discussions looking at the compliance reports and discussing what changes, if any, need to be made. Once the accessibility questions are decided, they will turn to the more controversial question of damages. If the two sides fail to reach an agreement, the case is set to go to trial next year.

The Americans With Disabilities Act, passed in 1990, outlaws discrimination against people with disabilities and sets out detailed guidelines for making public places accessible for them.

The law currently allows disabled individuals to file suit whenever they encounter a possible violation. But in the last year there have been attempts to introduce legislation that would allow businesses as many as 90 days to correct violations before a lawsuit could be filed.

The National Restaurant Assn. has signaled its support for such legislation, arguing in a statement for "a cooperative and more sensible approach" that would give restaurant owners time to modify their restaurants before a suit is filed.

Line dividers, a key complaint in the Taco Bell case, have been a particular source of trouble for the fast-food industry under the law. In 1998, Wendy's International Inc. agreed to remove or modify line dividers in all of its restaurants to settle a lawsuit filed by the Justice Department.

"At the time, we went back to all our existing store locations and made sure that any barriers to access were removed," said Bob Bertini, a spokesman for Wendy's, which operates more than 6,600 restaurants.

Schalow, the Taco Bell spokeswoman, said the line dividers were legal and vital to handling a high volume of customers, although she said most of the company's newer restaurants would use a single, one-directional rail to direct traffic. In any case, she said, customers who can't negotiate the line dividers always have the option to leave the line and go directly to the counter.

The courts apparently have never definitively ruled on the issue of line dividers, although the Justice Department, which enforces the disabilities act, filed a brief in the Colorado case arguing that it was unacceptable to require disabled customers to cut in line.

"It is really, really embarrassing," Muegge said of the line dividers. "You are standing out and that is something we don't like. We want to just flow through with everyone else."