

Automatic Door Service Providers

How to Limit your Liability

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Automatic Door Injury Expert Witness

If you run an active automatic door service company it is not a matter of if you will be sued, it is a matter of when.

What every door service provider can do to proactively protect their business.

As one of the most frequently retained automatic door injury experts in the country, I am routinely hired by plaintiff and defense attorneys. I am known as one of the most impartial experts in this field and have been requested by numerous service providers and manufacturers to assist in their defense. I have a unique perspective having been involved in door and hardware sales, service, and installations as a working contractor for more than twenty five years. Many independent door service providers have used my services as automatic door expert to help defend claims made against them. When they have been named as either a co or cross defendant, I have been instrumental in their being released from the claim.

Many attorneys choose to directly sue each individual entity that they can identify in the chain of commerce, or solely sue the prime party that owned or managed the location where the injury took place. In the latter case, it is hoped that the prime defendant will make claims against every party that has ever worked on the doors, waiting for that sub party to provide additional contractually required indemnification, or at least partial participation in defense and possible settlement contributions.

When I have been retained by the plaintiff I have been involved in assessing and determining the responsible parties that are directly sued. After discovery and documentation disclosures, it is frequently apparent that many service providers are often completely uninvolved in the claim, but they become named regardless. I have often advised the plaintiff's attorney that the fault was directly attributable to the store ownership and management for not having competent service providers, comprehensive daily safety inspections, or have programs and policies in place to train employees to understand the in-house responsibilities that come with any automatic door system. In many cases there are numerous service providers that have been used for a single doorway and it is difficult to prove which company created the problem. Usually there are inadequate records and documentation that identifies what services were performed and by what service company. Other large chain store claims have named the master service provider, the regional affiliated companies (sometimes 3 or more), and a variety of uninvolved vendors that may have manufactured components or performed the original installation. This is done in an attempt to include these entities in the potential settlement.

Every case is unique and has many variable factors. In many cases the management of the stores where the injury occurred felt that the service providers that they call upon on an as-needed basis are responsible for the claim, even though those providers have not been to their store for 6 months or more. Conversely, there are cases where a service technician was at the store just hours before the injury. In that circumstance, it is difficult to believe that the service provider bears no fault for the accident.

Attributed Responsibility:

In general terms, the majority of cases ultimately show that the store ownership has failed to understand the responsibility to perform daily safety inspections of the automatic door systems. Many service providers have some responsibility for part of the injury claims due to poor business practices that may have been unintentional, or are completely at fault due to lack of proper technical training of their staff members. The manufacturers of the door systems typically have little or no responsibility for product defects or hidden problems, yet are included in most lawsuits. When special job requirements mandate installation crews provided by the general contractors or construction management, with no automatic door systems experience and lack proper training, they often fail to properly assemble and set up the door systems per the manufacturer's instructions.

Limiting Your Exposure:

1. The first step to proving that your business practices are solid is to keep complete and thorough records of all work performed for every customer. Make certain that all services provided are well documented. Provide accurate descriptions of the doorway systems at every location when there are multiple automatic door systems. Number each individual doorway in a manner that establishes undisputable location for all of your services provided.

For example, in a store where there are two exterior entry doors (North & South) and two interior entry doors (North & South), it is important to consistently label and maintain individual service records for each door unit. Train your technicians to use a standardized method of naming all of the doorways so that you can prove that an injury that occurred in the interior entrance way (north for example) was not the same door that was recently serviced in the exterior entrance doorway (south) where recent work was provided by your company. Devise a number, letter, or barcode system that will prove what door invoice connects to what door service call, every time. Position labels on doors and frames to assure positive identification.

2. Establish communication with a single point of contact when you are working in any location. After making the service call, make sure that the person that is requesting service is advised in writing as to the condition encountered upon arrival. Detail what service was needed, what service was provided, and what conditions relate to the maintenance of the doorway. Make certain that all of your correspondences are in writing to provide a strong paper trail for all work contracted with your company. Make sure that all of your invoices, estimates and proposals mention the importance and non-delegable owner's responsibility of performing the daily safety inspections for all automatic door systems. Clearly state where and how store owners and managers can get information about properly performing the daily safety checks. If this training service is available from your company, make reference to the fact that your company can provide professional training and instruction for how to check the safety of all automatic door systems for the store management and staff. Inform the store management that periodic maintenance and annual inspections are important to insure the safety of store patrons. But, daily inspections are their primary obligation. The old saying, "You can lead a horse to Water, but you can't make him Drink" is something to keep in mind. Make sure that your company does everything possible to allow your customers to "drink up" your professional knowledge. If the customer decides not to take you up on your offer, that customer is going to have an extremely hard time placing any blame on your company when something goes wrong with their door systems.
3. Door deficiencies and door compliance issues need to be put in writing. If it is found that a system is not repairable, or is in need of costly upgrades to make the doorway compliant, make sure to thoroughly explain the problems of non-compliance in writing. Tag the door as "unsafe" and photograph your tag. Many service providers have been released from a case on "Summary Judgment" by proving that the door systems that caused the injury of the claim needed to be taken out of service and be completely replaced. The owner or management of the store refused to take the advice of the service provider. The service provider, having a fully documented letter and photos showing all of the deficiencies and necessity to replace the doorway, was able to successfully dispute the claims made by the main defendant. The door service provider showed that the store was the negligent party and refused to heed the warnings given to make the doorway compliant.
4. Have your technicians routinely photograph their work. Photo documentation can also prove invaluable when a claim of shoddy workmanship and negligence is made against a service provider. Showing the condition of the doorway upon your technician's arrival and departure often can prove the repairs and upgrades made during the service call. In one recent case, photos showing the location of a new sensor over the door proved proper placement. The sensor had been relocated by another person after the original installation which led to improper field of coverage. The plaintiff was severely injured leading to a significant wrongful death suit. The service provider was released from the case, and actually filed suit against the main defendant.
5. Hopefully, it goes without saying that all of your employees and technicians need to be as competent as you think they are. It is not uncommon to hear that many service providers train their techs by having new guys ride along with a more experienced serviceman for a couple of months. The old "Watch One, Do One, Teach One" philosophy just does not cut it these days. Make sure that all of your service providers are well trained and competent in the work that they perform. I have witnessed many depositions where some disgruntled employees, no longer working for a door service provider, attempted to get even and blame their poor workmanship on their former employers training practices. Even if this is not the case, you really don't need the negative press.

One last observation:

There are several well-known "so called" automatic door experts that seem to lack any trade experience or working knowledge of the field. I have repeatedly seen a couple of these men custom tailor their analysis of a case to attack any entity that fits the needs of the attorney that hired them. First their evaluations point the finger at a store, and then when the store manages to get removed from the case, the amended opinion by these experts takes aim at the manufacturer of the door system, the service providers, or sometimes component vendors. If you find yourself in a legal situation hopefully you will have followed the direction of this article and have a substantial paper trail to prove your professionalism.

Mike Panish is the nation's leading automatic door expert providing expert services for plaintiff, defendant, and cross defendants across the United States, Canada, and internationally. He has a thorough working knowledge of door systems and hardware components. Mike has personally installed, serviced, and designed proprietary products for all commercial venues. Mike is available for immediate consultation and analysis of your case. Mike is licensed as a door and hardware security contractor in the State of California and has offices in California and in New England. Visit his website at www.constructionwitness.com for additional articles and publications pertaining to door hardware and automatic door systems and injuries.