
Abrams Fensterman, LLP Helps Reduce Costs of the Access-A-Ride Program

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By Ethan B. Gerber, Esq.

The vast majority of stations in the NYC subway system are not wheelchair accessible, in violation of the Americans with Disabilities Act of 1990 (ADA). The Access-A-Ride program was originally designed to be a solution to this problem. The program has grown tremendously in part because it has taken on many infirmed and disabled people who are nevertheless ambulatory,¹ and also because of the aging population. The costs are projected to increase explosively as the “baby boomer” generation ages and the physical ailments of more and more people preclude their use of mass transit.²

Adding significantly to the costs are liability awards or settlements for accidents involving Access-A-Ride vehicles. The Office of the State Comptroller estimated that between 2008 and 2012, over 91 million dollars was paid in settlements or awards.³

To offset the costs, the MTA has outsourced some of those rides to private FHV companies, particularly those that do not require wheelchair accessible vehicles. This in no way stops plaintiffs’ attorneys from commencing actions against the MTA, arguing that it is responsible because it administers the program. The only solution to this costly problem is knowledgeable aggressive counsel, fighting to get rid of these

cases and doing so as cost effectively as possible.

For the last two and a half years, dozens of these cases were handled by my former firm, Gerber & Gerber, and are now being handled by Abrams Fensterman, LLP. The results have been remarkable. Of 42 cases that have commenced, more than half have been dismissed outright by the Court after motion practice, or simply discontinued by the plaintiffs after receiving our motions. Many more are still pending decisions. We have won these motions in every county in which we have cases pending, before many different judges. Thus far, we have won hard fought motions in New York County before Justices Michael D. Stallman, Arlene P. Bluth, and Letitia M. Ramirez; in Kings County before Justices Johnny Lee Baynes, Loren Baily-Schiffman, Bernard J. Graham, Edgar G. Walker, and Carolyn E. Wade, in Queens County before Justices Darrell L. Gavrin, and Howard G. Lane; and in Bronx County before Justices Julia Rodriguez and Barry Salman.

These motions have been granted for varying reasons but the end result is the same – less costs for the program or its vendors, and more money for the actual services. The demand for accessible services, and other assisted travel, will continue to increase with the aging of the New York City population – a dire problem in need of immediate attention: Frank Carone, an Executive Partner of Abrams Fensterman, LLP and former Commissioner of the New York City Taxi & Limousine Commission, recently wrote an editorial in the New York Daily News calling for an expansion of the requirement of wheelchair vehicles to fully half of the for-hire industry.⁴ That solution will help immeasurably. Keeping the cost of litigation and liability awards down through aggressive litigation, as done by Abrams Fensterman, LLP, will help keep the solution viable.

Ethan B. Gerber is a partner at Abrams Fensterman, LLP and is in charge of the [Transportation Industries Department](#).

¹ According to a 2016 report of the Citizens Budget Commission, as far back as 2002, only ¼ of AAR trips required wheelchair accessible vehicles. Even though the MTA has been more restrictive, well more than half of trips are for ambulatory users. <https://cbcny.org/research/access-ride>

² A 2016 study by the Rudin Center for Transportation Policy & Management of the NYU Robert F. Wagner School of Public Service estimated that in 2016 the program would cost 505.7 million dollars. It further estimated that while it provided 6,360,165 trips in 2015, by 2022 it will provide 14,322,120 trips annually. Moreover, by 2030 there will be a 30.3 percent increase in NYC's population over age 60.

³ Access-A-Ride Accident Claims, NY State Office of the Comptroller, Div. of State Gov. Accountability, Release 2012-S-12 (April 2014).

⁴ <http://www.nydailynews.com/opinion/accessible-for-hire-vehicles-road-article-1.2905363>

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