

APPENDIX A

**Order of the United States Court of Appeals for the
Sixth Circuit Affirming Dismissal (June 6, 2025)**

**UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT**

No. 24-5773

TERESA M. HARMON, Plaintiff-Appellant,

v.

LOUIS I. WATERMAN; GOLDBERG SIMPSON, LLC,
Defendants-Appellees.

FILED Jun 6, 2025

ORDER

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ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT OF
KENTUCKY

Before: GIBBONS, BUSH, and DAVIS, Circuit Judges.

Teresa M. Harmon, proceeding *pro se*, appeals the district court's judgment dismissing her complaint of discrimination under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.* She also requests oral argument. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). Because Harmon failed to state a claim under the ADA, we affirm.

Harmon sued an attorney, Louis I. Waterman, and a law firm, Goldberg Simpson, LLC, who represent her ex-husband in their divorce and child-custody proceedings. She claimed that the defendants violated the ADA by opposing her attempts to obtain disability accommodations from a state court. Because we review this case on a motion to dismiss, we recount the facts as they are alleged in the complaint and view them in the light most favorable to the plaintiff. *Christopher v. Harbury*, 536 U.S. 403, 406 (2002).

Harmon alleged that the defendants began representing her ex-husband in 2010 and long argued that she suffered from an undiagnosed psychiatric disorder as a way to gain an advantage [Page 2] in those proceedings. In 2021, Waterman, on his client's behalf, successfully moved for a no-contact order in relation to the minor child shared by Harmon and her ex-husband. In July 2022, in the midst of the ongoing dispute over whether she would be permitted access to the child, the Department of Veterans Affairs (VA) deemed her permanently and totally disabled. In August 2022, after Harmon attempted to contact her child in violation of the court order, Waterman moved for contempt. In her response to that motion, Harmon disclosed for the first time that she suffers from a disability. Litigation continued acrimoniously, and in February 2023, Harmon moved to stay the proceedings so that she could seek representation from an organization that provides advocacy services for people with disabilities. At the hearing on this motion, Waterman argued against the stay and made purportedly false statements about Harmon's disability. He also obtained a restraining order that effectively prevented

Harmon from availing herself of resources to assist with the litigation.

Around this same time, Waterman filed a separate action on his client's behalf to terminate Harmon's parental rights. In April and May 2023, Harmon moved for various disability accommodations in the court proceedings and for the appointment of counsel. The state court granted some, but not all, of her requests. Waterman, again on behalf of his client, opposed Harmon's request for appointed counsel and sought attorney fees for having to respond. Waterman argued that there was no legal or factual basis for appointing counsel, that Harmon had not proven that she was disabled, and that the motion was a waste of the court's time and resources. In response, Harmon moved for Waterman to be disqualified and sanctioned for his discriminatory and retaliatory statements about her disability. Waterman, in turn, accused Harmon of lying and asserted that she had presented no certified records or expert testimony verifying her claimed disability, that the letter she presented from the VA was heavily redacted and did not disclose the nature of her disability, that Harmon was attempting to weaponize her claimed disability to circumvent the proper standards for the child-custody dispute, and that the details of the claimed disability that Harmon was refusing to disclose were likely more relevant to the child-custody determination than to ADA accommodations. Waterman further argued that Harmon should have **[Page 3]** to pay the legal fees incurred for responding to her motions. It appears that Harmon sought to appeal as to these issues and initially obtained leave to proceed *in forma pauperis* on appeal in

the termination action. But Waterman successfully moved to vacate her *in forma pauperis* status, after which Harmon filed her federal complaint.

The district court construed Harmon's complaint as claiming that (1) the defendants violated Title III of the ADA as an operator of a place of public accommodation by questioning the genuineness of her disability and opposing her requests for accommodations; (2) the defendants interfered with her ADA rights under Title II to access the courts and meaningfully participate in court proceedings; and (3) the defendants retaliated against her in violation of the ADA for seeking disability accommodations. The defendants moved to dismiss, and the district court granted the motion, concluding that Harmon's allegations were insufficient to support a plausible ADA claim under any of these theories.

On appeal, Harmon challenges the dismissal of her claims and asks us to hold that the ADA's protections extend to the context of active litigation and actions taken by opposing counsel in relation to a party with a disability.

We review *de novo* a district court's judgment granting a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). See *Bickerstaff v. Lucarelli*, 830 F.3d 388, 395-96 (6th Cir. 2016). To avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Harmon first invokes Title III of the ADA, which prohibits discrimination based on a disability by a person who owns, leases, or operates a place of public accommodation. *See* 42 U.S.C. § 12182(a). A law office is a place of public accommodation. *See id.* § 12181(7)(F). The district court dismissed this claim, however, because it concluded that Harmon's allegations did not show that she was a client or customer of the law firm. *See id.* § 12182(b)(1)(A)(iv). Instead, she was in the position of an adversarial litigant to a client the law firm represented.

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Harmon opposes this conclusion by pointing to the Supreme Court's statement in *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 679 (2001), that "Title III's broad general rule contains no express 'clients or customers' limitation." The Supreme Court noted in that opinion, however, that the petitioner there was arguing that § 12182(b)(1)(A)(iv)'s reference to clients or customers nonetheless fairly describes the scope of Title III's protection as a whole, and the Court concluded that it need not decide the question because the petitioner's argument failed regardless. *Id.* at 679-80. Even assuming that Harmon is correct that Title III is not expressly limited to "customers and clients," she must still allege that she has been denied physical access to a place of public accommodation or denied the ability to avail herself of the goods and services offered at a place of public accommodation to state a claim under Title III. *See Lenox v. Healthwise of Ky., Ltd.*, 149 F.3d 453, 456-57 (6th Cir. 1998) (citing *Parker v. Met. Life Ins.*, 121 F.3d 1006, 1010-12 (6th Cir. 1997) (en banc)). But she did not allege that

she was denied physical access to the law firm's offices or that the defendants refused to provide her with the services they provide to the public, *i.e.*, legal representation, because of her disability. And the defendants' provision of legal representation to her ex-husband, including by opposing her motions in the child-custody dispute, did not amount to disability discrimination in violation of Title III.

Turning to Harmon's interference claim under Title II of the ADA, the district court focused on her contention that the defendants interfered with her participation in the state court proceedings by moving to vacate the order granting her *in forma pauperis* status on appeal. But on appeal, she more broadly characterizes the interference to include the defendants' suggestion that her disabilities were fabricated, their opposition to her accommodation requests, and their pursuit of "retaliatory legal actions." The ADA makes it "unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of... any right granted or protected under this chapter." 42 U.S.C. § 12203(b). This includes the provision of public services under Title II. *See id.* § 12132. But the proper defendant for a claim under Title II is a public entity or a public employee in an official capacity. *See, e.g., Everson v. Leis*, 556 F.3d 484, 501 n.7 (6th Cir. 2009).

Harmon did not sue a government entity, however, such as the state court. Instead, **[Page 5]** she sued her ex-husband's private attorney and his law firm. She therefore cannot maintain an interference claim under Title II. *Cf. Post v. Trinity Health-Mich.*, 44 F.4th 572, 576

(6th Cir. 2022) (holding that an employment-related interference claim under the ADA needs to be directed at the employer). And notably, Harmon did not plausibly allege that the defendants possessed authority to decide whether she would be granted the accommodations she requested. Rather, that authority rested with the state courts. We see no reason to conclude that an attorney's opposition to such motions on behalf of his client amounts to interference forbidden by the ADA. Moreover, to the extent that Harmon focuses on the defendants' opposition to her proceeding *in forma pauperis*, she does not demonstrate that proceeding *in forma pauperis* is a right protected by the ADA.

Lastly, Harmon asserted retaliation in violation of 42 U.S.C. § 12203(a), claiming that the defendants sought the termination of her parental rights, attorneys fees, and other court sanctions in retaliation for her having sought disability accommodations in state court. The ADA forbids "discriminat[ion] against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter." *Id.* If this claim is based on Title II, then it suffers from the same problem as Harmon's interference claim, *i.e.*, that she sued private parties rather than a public entity. If it is based on the public-accommodations provisions of Title III, then it fails because she did not avail herself of the defendants' services. But assuming that she can pursue an ADA retaliation claim against these defendants merely because they represented her adversary in state court litigation, Harmon must allege facts plausibly

establishing that she engaged in a protected activity that the defendants were aware of, the defendants took an adverse action against her, and there was a causal connection between the protected activity and the adverse action. *See Popeck v. Rawlings, Co., LLC*, 791 F. App'x 535, 540-41 (6th Cir. 2019); *Penny v. United Parcel Serv.*, 128 F.3d 408, 417 (6th Cir. 1997).

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Harmon's allegations do not plausibly establish a causal connection between her purported protected conduct of seeking disability accommodations and the defendants' purported adverse actions of opposing her requests in court. Instead, the allegations suggest that the defendants' litigation activities were motivated by their desire to vindicate the rights of their client, such as by seeking contempt for Harmon's violation of the court order preventing her from contacting her child and to terminate her parental rights. Representing these interests in adversarial court proceedings does not rise to the level of ADA retaliation simply because Harmon claims to have a disability.

Accordingly, we AFFIRM the district court's judgment.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

APPENDIX B

**Memorandum Opinion & Order of the United
States District Court for the Western District of
Kentucky (July 30, 2024)**

**UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF KENTUCKY LOUISVILLE
DIVISION**

No. 3:23-cv-395-BJB

TERESA MARIA HARMON, Plaintiff

v.

LOUIS I. WATERMAN AND GOLDBERG SIMPSON,
LLC, Defendants

MEMORANDUM OPINION & ORDER

[Page 1]

Teresa Harmon filed for divorce in 2009 and has been fighting her ex-husband in on-and-off state-court proceedings ever since. That acrimonious litigation has included allegations and proceedings related to their divorce, custody of their teenage daughter, disability accommodations, no-contact orders, contempt, COVID-19 accommodations, VA disability determinations, and discrimination allegations. Harmon is a disabled veteran and mother of two, though she is subject to a no-contact order regarding one of her children. *See* Amended Complaint (DN 6) ¶¶ 2, 5, 13, 16, 18. This federal case began in 2023 when she sued her ex-husband's lawyer (Louis Waterman) and his law firm (Goldberg Simpson)

under the Americans with Disabilities Act. *Id.* at pp. 16-18.

Harmon seeks a preliminary injunction halting the Defendants' alleged ADA violations, a court order compelling ADA compliance training by the Defendants, compensatory and punitive damages, and civil penalties. *Id.*; PI Motion (DN 14-1). The papers don't make clear what her alleged disability is or how it affects her case. Read charitably, the suit rests on three different theories of liability: (1) Waterman made discriminatory statements about her disability that violated public-accommodations obligations, (2) Waterman and his firm interfered with her right to access the courts, and (3) Waterman and the firm retaliated against her assertion of ADA rights in state court. Even accepting Harmon's account as true—which the Court must at this stage—and even giving this *pro se* plaintiff the benefit of every doubt, none of these three theories states a factually plausible claim that would entitle her to recovery. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Court therefore grants the Defendants' motion to dismiss (DN 9), grants the "supplemental motion to adopt [the] [Page 2] motion to dismiss" (DN 10),¹ and denies Harmon's motion for a preliminary injunction (DN 14).

1. Public accommodations. Harmon argues that "discriminatory and attitudinal statements, disability denial, and ableist remarks" that Waterman made during the state-court litigation "amount to discrimination regardless of their impact." PI Motion at 7-8. Over the course of several state-court proceedings, Waterman (on

behalf of Harmon's ex-husband) allegedly questioned the genuineness of Harmon's disability, opposed her requests for accommodations in court, and argued that her disability didn't justify delaying the proceedings. *See, e.g.*, Amended Complaint ¶ 33. Regardless of whether Waterman's alleged statements might be considered offensive by Harmon or others, the question under the ADA is whether the statements in question amount to discrimination.

Title III of the ADA provides that "[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. § 12182(a). The ADA's list of public accommodations includes the "office of an accountant or lawyer," so Goldberg Simpson is subject to the Act. § 12181(7)(F). And the statute protects "clients or customers of the covered public accommodation." § 12182(b)(1)(A)(iv). The Act makes it unlawful to (i) deny individuals with disabilities "the opportunity... to participate in or benefit from the services... of an entity," (ii) provide an unequal benefit, or (iii) provide an avoidable separate benefit. § 12182(b)(1)(A)(i), (ii), (iii).

Harmon's claim fails because she was an adversary, not a client. In ADA terms, her complaint doesn't allege that she ever sought "the opportunity ... to benefit from the services" of Goldberg Simpson. To the contrary, her ex-husband was the firm's client and no allegation indicates that Harmon sought to access or secure the

firm's services—which surely would've been a conflict. Nor does she allege that the firm denied her access to services in any other way. Rather, she argues that Waterman and his firm "provided services to" her through "a contractual relationship with [her] former spouse," though she was denied "full and equal enjoyment" of those "services" based on Waterman's "discriminatory and ableist remarks." MTD Response (DN 11) at 6. But Harmon cites no precedent or plausible interpretation—and this Court isn't aware of any—that would control the language or arguments used by a law firm in response to allegations by someone who alleges her disability brings her within the coverage of the ADA. The Act ensures that individuals with disabilities have the same access to public accommodations as anyone else. Harmon has not alleged that Goldberg Simpson refused to represent her either directly or **[Page 3]** through a policy or physical barrier. So she's failed to state a claim for discrimination under the ADA.

Footnote 1: The Defendants' supplemental filing noted that they "referenced the Plaintiff's Complaint in their Motion, but the Amended Complaint in their Memorandum in Support." Supplemental MTD (DN 10) at 1. So they filed a substantively identical supplemental motion clarifying that they sought "dismissal of the Amended Complaint." *Id.*

2. Interference. Harmon also argues "that Defendants interfered with rights granted by the ADA with respect to government services (Title II)" in a way that "affected Plaintiff's right to access... the courts and participate meaningfully in the proceedings." MTD Response at 9-10. Specifically, the Defendants allegedly "caused [her state-court] order to proceed *in forma pauperis* to be vacated after it had been approved, thus interfering with her right to appeal any decisions regarding the disability accommodations." *Id.* at 10. Harmon had been denied *in forma pauperis* status in at least one prior Kentucky appellate proceeding. *See* Amended Complaint ¶ 39. The Court of Appeals initially granted her *in forma pauperis* motion for her appeal related to disability accommodations and Waterman's alleged retaliation. ¶ 105. But the court rescinded that order in response to the Defendants' motion to vacate. ¶¶ 106, 108.²

Harmon's interference theory draws on the ADA's anti-interference provision in § 12203(b). This provision makes it "unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of any right granted or protected by this chapter." § 12203(b). But her allegations, even read generously and assumed true, fall short. The caselaw concerning this provision is not extensive; indeed, the Sixth Circuit has not yet "confirmed the elements" of an ADA interference claim. *Willis v. CSL Management LLC*, No. 2:21-cv-10805, 2023 WL 4355031, at *6 (E.D. Mich. July 5, 2023). But at the very least, a defendant must have done something that has "the effect of interfering with the exercise of rights' under the ADA." *Kelly v. Town of Abingdon*, 90

F.4th 158, 171 (4th Cir. 2024) (quoting *Brown v. City of Tucson*, 336 F.3d 1181, 1191 (9th Cir. 2003)).

Harmon hasn't alleged that the right to proceed *in forma pauperis* is a right granted or protected by the ADA. See, e.g., *Robles v. Medisys Health Network, Inc.*, No. 1:19-cv-6651, 2020 WL 3403191, at *13 (E.D.N.Y. June 19, 2020) (interference claim failed because plaintiff had "not alleged that the leave that he requested ... was an ADA-protected right"); see also *Reynolds v. American National Red Cross*, 701 F.3d 143, 154 (4th Cir. 2012) (ADA doesn't cover participation in workers' compensation process created and protected by state law).³

Footnote 2: Harmon's discussion of her interference claim focuses primarily on the Defendants' alleged interference with her access to the courts. But it also briefly mentions that they "interfered with her rights as to the public accommodations context." MTD Response at 9. What this means is entirely unclear and the pleadings offer no facts in support of this argument. Harmon doesn't indicate what public-accommodation right the Defendants allegedly interfered with—nor how her interference claim might differ from her discrimination claim.

Footnote 3: Harmon nods in the direction of "the Rehabilitation Act of 1973," which "may apply" "[t]o the extent that Defendants interfered with" her *in forma pauperis* rights. MTD

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Harmon never says what her disability is or whether and how it relates to her IFP status. She never says that Kentucky's IFP rules and practice affects the ability of her (or other persons with disabilities) to access and participate in legal proceedings differently than it affects other people with limited means but without disabilities. Certainly nothing in the statute or any caselaw the Court is aware of suggests that individuals with disabilities have a right to proceed *in forma pauperis* without meeting the state-established criteria for doing so. "Title II does not require States to employ any and all means to make judicial services accessible to persons with disabilities, and it does not require States to compromise their essential eligibility criteria for public programs." *Tennessee v. Lane*, 541 U.S. 509, 531-32 (2004). Harmon doesn't even say why the state court rescinded her IFP designation and how that interfered with any rights she might've otherwise had under the ADA.⁴

Footnote 3 (cont.): Response at 10. The interaction between "Title II and Rehabilitation Act issues," she maintains, may "present novel questions of law." *Id.* So novel, perhaps, that she hasn't sketched out what those questions might be or anything else about a putative Rehabilitation Act claim. *See* MTD Reply (DN 12) at 1 ("Ms. Harmon did not specify which section of the Rehabilitation Act applied to her claims, nor did she allege that the Defendants fell under one of the categories of federal entities" covered by the Act). Nor has she identified any "program or activity receiving Federal

financial assistance" that the Defendants might have excluded her from, thereby potentially triggering the Act's protections. *See* 29 U.S.C. § 794. To the extent she purports to raise a Rehabilitation Act claim at all, she hasn't supported it with factual allegations remotely sufficient to survive a motion to dismiss.

Footnote 4: Anticipating the jurisdictional tension inherent in this federal challenge to state-court determinations, Harmon "recognizes that this federal court operates under a distinct jurisdiction separate from state appellate courts and does not act as a review body for state court decisions." PI Reply at 1. Yet she goes on to request relief that would appear to require just that. The notion that a federal court could or would review interlocutory state-court sanctions and IFP decisions is adventurous at best. The Rooker-Feldman doctrine, discussed below, reflects the "general principal that federal district courts do not stand as appellate courts for decisions of state courts." *RLR Invs., LLC v. City of Pigeon Forge*, 4 F.4th 380, 387 (6th Cir. 2021) (cleaned up). To the (surely quite limited, if any) extent Harmon challenges the state court's rulings directly, the Rooker-Feldman doctrine bars this Court from awarding her such relief or even taking jurisdiction over her claims. And to the extent she merely challenges the actions of lawyers involved in bringing about those state-court rulings, her claims fail for the separate reasons discussed above. *See Alexander v. Rosen*, 804 F.3d 1203, 1206-07 (6th Cir. 2015) (Rooker-Feldman not implicated because plaintiff did "not appeal the state court's child support decision; he challenge[d] the conduct of the individuals who happened to participate in that decision"). Finally, Harmon's

allegations and the parties' briefing never indicate whether any state proceedings remain ongoing. If they do, that could raise additional concerns under *Younger v. Harris*, giving this Court an alternative reason to stay its hand and not take any action that might disrupt the state-court case. 401 U.S. 37, 43 (1971) ("Since the beginning of this country's history Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference by federal courts.").

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3. Retaliation. Finally, Harmon "alleges that Defendants engaged in retaliatory actions in violation of the ADA." MTD Response at 10 (referring generally to Amended Complaint ¶¶ 41, 42). In particular, she argues that the Defendants retaliated against her for "seeking ADA accommodations and making a discrimination charge against" them by "seeking termination of [her] parental rights, nearly \$30,000 in attorney's fees, sanctions, and a restraining order." PI Motion at 9.

Under the ADA's anti-retaliation provision, "[n]o person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter." 42 U.S.C. § 12203(a). To state a retaliation claim, Harmon must allege facts that "establish: (1) [s]he engaged in protected activity, (2) [a] defendant took adverse action against [her], and (3) a causal connection between the protected activity and the adverse action." *Wilbon v. Michigan Dept. of Corrections*, No. 2:13-cv-

14404, 2015 WL 1004707, at *3 (E.D. Mich. Mar. 6, 2015) (citing *Penny v. United Parcel Service*, 128 F.3d 408, 417 (6th Cir. 1997)); see also *Constantine v. New Jersey Dept. of Banking and Ins.*, No. 23-2423, 2024 WL 1988829, at *6 (3d Cir. May 6, 2024) (applying same analysis at the pleading stage).

Even assuming Harmon engaged in "protected activity" under § 12203(a), nothing in the allegations indicates that the Defendants took any adverse action because she was disabled. See *Hopkins v. Bunzl Retail Services, LLC*, No. 5:22-cv-13, 2022 WL 1693716, at *5 (W.D. Ky. May 26, 2022) (ADA "is a discrimination statute" that "protects individuals who have been discriminated against *because of a disability*").

Harmon's allegations focus on accommodations she sought during contempt and custody proceedings. She asked the state court for a stay so she could "locate a 'Protection and Advocacy (P&A) organization for legal representation and other advocacy services for people with disabilities,'" which the judge granted over the Defendants' opposition. Amended Complaint ¶¶ 23, 31, 33, 40. Shortly thereafter, the Defendants filed a new case seeking to terminate her parental rights, and Harmon again sought disability accommodations in both the contempt and termination proceedings. ¶¶ 41, 46-47. The court granted all her requests except electronic-filing access and a "support person" to help her litigate the case. ¶ 47. Finally, she requested a court-appointed attorney, which the Defendants opposed, questioning whether Harmon was in fact disabled (and requesting attorneys' fees). ¶¶ 49-53. Harmon's reply and subsequent motions

sought sanctions "for [Waterman's] discriminatory statements about [her] disabilities and retaliation for asserting her rights under the ADA," and disqualification of Waterman. ¶¶ 54-56.

None of this state-court litigation conduct appears to be protected under the federal anti-retaliation provision. "The ADA is not a catchall statute creating a cause of action for any retaliation, but protects individuals only from retaliation [Page 6] for engaging in, or aiding another who engages in, activity covered by the ADA." *Rorrer v. City of Stow*, 743 F.3d 1025, 1046 (6th Cir. 2014). "Protected activity typically refers to an action taken to protest or oppose a statutorily prohibited discrimination." *Id.* (citation omitted). The underlying dispute and Harmon's actions don't appear to have been taken for that reason. Rather, her allegations describe "[l]itigation... in an unrelated matter" that doesn't bear on "retaliation unrelated to discrimination," which is "not ... activity that the ADA protects." *Jones v. City of Cleveland*, No. 1:22-cv-39, 2023 WL 6976631, at *7 (N.D. Ohio Oct. 23, 2023) (ADA didn't prohibit retaliatory termination related to unrelated lawsuit that "did not include allegations of discrimination"). Her requests for accommodation don't describe any unlawful actions by the state court that she opposed. *See, e.g., Small v. Memphis-Shelby County Airport Authority*, No. 2:13-cv-2437, 2015 WL 7776605, at *18 (W.D. Tenn. Dec. 2, 2015) (opposition to lawful conduct not protected).

Nor does she allege that the Defendants opposed her accommodation and sanctions requests because she was disabled. The closest Harmon comes to a plausible

factual allegation is her statement—not in her Complaint, but in her response to the Defendants' motion to dismiss—that the Defendants made unspecified "attitudinal statements" and tried to evade the ADA by filing a parallel proceeding. MTD Response at 10. This is conclusory and implausible. What these attitudinal statements are remains entirely unclear. And Harmon is the one who first raised her disabilities in state court, seeking to delay and alter the proceedings on that basis. Nothing indicates that opposing those motions is equivalent to "retaliating" against them, such that anyone who invokes the ADA in a state-court motion is federally protected from adversarial challenge. This makes no sense. If anything, the Defendants' resistance to her claims of disability suggests they acted because they thought she did not have a disability, not because she did. Surely ADA retaliation doesn't reach so as far as to equate state-court motions practice with "retaliation" anytime someone mentions a disability.

To be sure, Harmon does invoke some ADA language by describing her state-court sanctions motions as a "discrimination charge." MTD Response at 10. But she never explains—as a matter of fact or law—why this might count as "a charge ... in an investigation, proceeding, or hearing under" the ADA. § 12203(a). The state-court litigation apparently didn't involve an ADA claim, making it hard to understand how the litigation might've punished her for participating in it as the Complaint seems to imply. *See, e.g., Rorrer*, 743 F.3d at 1046 ("The ADA is a discrimination statute and does not protect an employee who participates in arbitration

proceedings contesting employment decisions that do not involve any claims of discrimination.").

Nothing indicates that the Defendants took adverse actions against her because she was disabled. *See Penny*, 128 F.3d at 417 (retaliation claim failed because plaintiff didn't allege discriminatory action taken against him). Discrimination under Title II consists of denying a disabled person "meaningful access to a benefit or service" on account of his or her disability. *Bedford v. Michigan*, 722 F. App'x 515, 518 (6th Cir. 2018) (citing *Alexander v. Choate*, 469 U.S. 287, 301 [Page 7] (1985)).

Harmon's ex-husband, through his lawyers, apparently sought "termination of [Harmon's] parental rights, nearly \$30,000 in attorney's fees, sanctions, and a restraining order" in state court. PI Motion at 9. Nothing even hints that this happened because of Harmon's disability, instead of because she and her ex-husband disagreed about important questions of family and financial rights, which they attempted to sort out through ordinary litigation in family court. Her federal allegations don't point to any denial of access to the judicial process or retaliation for doing so that bears any relationship to a disability. *See, e.g., Bedford*, 722 F. App'x at 518 ("To sustain a claim, a disabled person must be denied meaningful access to a benefit or service.") (citing *Alexander*, 469 U.S. at 301).

Indeed, treating the litigation decisions of litigants and judges as "protected activity" and "adverse action" under the ADA would appear to call for the sort of federal second-guessing of state-court rulings that judges may not indulge in. The state court already heard Harmon's

objections and (apparently) denied her requests for sanctions and withdrawal based on allegations of disability discrimination. The Rooker-Feldman doctrine bars federal district courts from considering "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). To the extent Harmon invites this Court to review the state court's management of its proceedings, jurisdiction doesn't even exist. And to the extent she asks this Court to review the Defendants' litigation conduct that led to those rulings, nothing in Harmon's allegations indicates the Defendants acted against her because she was disabled or engaged in opposing unlawful practices that discriminated against disabled persons. To the contrary, her allegations indicate that the Defendants opposed Harmon's motions because they were representing their client in an adversarial proceeding. This doesn't amount to disability discrimination.

4. Preliminary Injunction. Because Harmon has failed to state a claim under the ADA, she cannot establish any likelihood of success, public interest, or third-party harms implicated by her request for a preliminary injunction. So her motion for a preliminary injunction (DN 14) would fail on the merits and is moot given the failure of her underlying claims, notwithstanding her request for a combined hearing under Federal Rule of Civil Procedure 65(a)(2). *See* PI Motion at 1; *Hensley Mfg., Inc. v. Propride, Inc.*, 622 F. Supp. 2d 554, 562 (E.D. Mich. 2008) (denying preliminary-injunction motion).

ORDER

The Court grants the Defendants' motion to dismiss and supplemental motion (DNs 9 & 10) and denies Harmon's motion for a preliminary injunction (DN 14).

Benjamin Beaton, District Judge
United States District Court

APPENDIX C

**Order of the United States Court of Appeals for the
Sixth Circuit Denying Rehearing (July 16, 2025)**

UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT

No. 24-5773

TERESA M. HARMON, Plaintiff-Appellant,

v.

LOUIS I. WATERMAN; GOLDBERG SIMPSON, LLC,
Defendants-Appellees.

FILED Jul 16, 2025

ORDER

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BEFORE: GIBBONS, BUSH, and DAVIS, Circuit
Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

APPENDIX D

**Arizona Senate Committee Analysis Report: Joint
Legislative Ad Hoc Committee on Family Court
Orders (October 2025)**

ARIZONA STATE SENATE

Committee Analysis Report

**Joint Legislative Ad Hoc Committee on Family
Court Orders**

Committee Co-Chairs: Senator Mark Finchem,
Representative Rachel Keshel

Date: October 2025

PURPOSE OF THE COMMITTEE: To take public comment and expert testimony on issues related to family court proceedings, including but not limited to court-ordered therapeutic intervention. The committee will determine whether legislative reforms are needed to address the impact of family court orders on families and children.

EXECUTIVE SUMMARY: Throughout its hearings, the committee heard consistent themes from agency officials, board members, and public witnesses:

1. Limited oversight and fragmented accountability for court-ordered behavioral-health professionals;
2. Process constraints on the Commission on Judicial Conduct (CJC) that leave most complaints unresolved from the public's perspective;

3. Gaps in centering child voice, civil rights, and safety in proceedings;
4. Significant financial burdens tied to reunification programs and court-appointed services; and
5. The apparent abandonment of the pole star "best interests of the child."

These insights point to legislative options ranging from restructuring Arizona's family court model to adopting Kayden's Law (VAWA 2022 custody-safety provisions) and related reforms.

Public interest in this issue is significant. The hearings drew thousands of Arizonans, in-person, live, and on demand:

- April 14: 357 live / 630 Video On Demand
- May 12: 1,166 live / 846 Video On Demand
- June 16: 1,003 live / 1,004 Video On Demand
- August 27: 557 live / 498 Video On Demand

In total, more than 6,000 combined views and downloads underscore the depth of concern across the state and the demand for reform. More than 12 legislators from across America have contacted the Arizona Senate about the state's efforts on family court reform.

BASIS FOR FINDINGS: This report synthesizes testimony, transcripts, and materials submitted to the Committee, distilling recurring issues, quantifiable data points, and statutory or policy gaps.

COMMON THEMES HEARD BY THE COMMITTEE:

A) Oversight gaps for court-ordered psychologists and allied professionals

1. The Board of Psychologist Examiners described a claims process (since 2015) for court-ordered services: three board members independently screen claims; if one or more find merit, the claim advances to a formal complaint (investigation).
2. The Board cannot remove a psychologist from a case or overturn opinions; its authority is limited to professional conduct and discipline.
3. Average volume noted as approximately nine (9) claims per year across FY2019-FY2024, with roughly 40% advancing to complaint; overall complaints (from all sources) are far more numerous than claims stemming from court orders.
4. Board members affirmed that acting outside the scope of a court order could constitute unprofessional conduct. However, investigators do not directly interview children, and there is no in-house child advocate function inside Board investigations.

B) Child voice, guardian ad litem (GAL), and 'best interest' clarity

1. Members probed how 'best interest of the child' is operationalized. Witnesses stated that psychologists are guided by the court's order, not a separate child rights framework.
2. Testimony suggested the need for more consistent appointments and the use of a dedicated child

specialist, operating under a recognized standard of care, particularly in long-running or highly adversarial matters.

C) Reunification programs and evidence standards

1. Legislators raised concerns over high costs (commonly over \$15,000) and the uncertain efficacy of reunification programs.
2. No empirical evidence exists to show that these types of programs are in the child's best interest, despite claims to the contrary.
3. Regulatory boards do not evaluate the effectiveness of such programs; questions have been raised about the appropriate standards of evidence and safety oversight.
4. A board member noted that 'parental alienation' is not a formal psychological diagnosis, highlighting the need for scientific rigor for any theory relied upon.

D) Fragmented accountability & quasi-judicial immunity

1. The Commission on Judicial Conduct (CJC) can only investigate judges' conduct (not legal error, and not non-judge actors).
2. The data presented indicated that approximately 85–90% of complaints are dismissed because many submissions contest rulings rather than alleging judicial misconduct.

3. The Committee discussed quasi-judicial immunity for non-judges (e.g., therapeutic interventionists, evaluators, parenting coordinators) and the absence of a clear standard of practice, specific domestic violence, sexual violence, and child abuse training for the court-appointed actors.

E) Cost, access, and due-process strain on families

1. Public testimony detailed significant financial burdens, including mandated counselors and programs not covered by insurance, contempt fines with accruing interest, disputes over school tuition or activity fees, and difficulties in obtaining third-party records.
2. Agencies described limited and difficult coordination with DCS for records; Attorney General referrals primarily occur for unlicensed practice rather than substantive disputes.

F) Training, competence, and data transparency

1. Continuing education (including ethics) is required for psychologists; however, the extent of family-court-specific training differs from the Arizona Supreme Court's criminal-court training infrastructure.
2. Failure by the court to properly vet contractors and verify that they have the necessary training in the appropriate disciplines for child custody cases.
3. Use of programs that are based on theories rather than scientifically proven programs.

FINDINGS: Child safety and the child's voice are not systematically centered across all touchpoints. Accountability mechanisms are siloed—boards regulate licensees, the CJC regulates judges, but no single body addresses outcomes produced by quasi-judicial actors. Costly mandates such as reunification programs can price families out of due process. Parental rights are sometimes implied to be severed if parents refuse, or cannot afford, reunification programs, even when statute does not allow such coercion.

LEGISLATIVE OPTIONS:

A) Structural Options – Court Organization *Intent:*
Reduce silo effects, diffuse concentrated influence of recurring court-appointed vendors, and normalize evidentiary rigor akin to general civil practice.

1. Elements to codify:
2. Domestic relations matters are assigned to general civil divisions, which adhere to strict rules of evidence and require written findings of fact regarding the safety of children.
3. Jury-eligibility pilot for narrowly defined, discrete factual determinations (e.g., credibility findings in documented child-abuse allegations) while preserving judicial authority for custody orders.
4. Standardized case-management tracks capping the number and cost of auxiliary appointees unless the court makes written, evidence-based findings of necessity.

5. Cross-training expectations for judges rotating through domestic calendars.
6. Uniform court rules, policies, and principles for all counties in Arizona.
7. Require all court-appointed advisors to be licensed in Arizona, disclose all financial relationships with the court, state, or parties, and certify in writing that they are not under investigation by a professional licensing board.
8. Temporary custody orders shall not exceed 180 days and shall not place the child with a parent alleged to have committed abuse or coercive control without an evidentiary hearing prioritizing child safety. ARS 25-403.
9. Amend the definition of "harm" under DCS to include psychological abuse.
10. Add legislation to streamline processes and standards, aiding law enforcement in understanding and protecting children and victims from abuse and death.

B) If Family Court is retained, re-charter as a 'Child Safety & Family Justice Division'

1. Adopt a statutory mission statement that prioritizes child safety.
2. Mandate specialized, recurring training for judges and appointees.
3. Create an independent child-advocacy unit embedded in the court structure.

4. Set hard cost/appointment caps unless justified explicitly on the record.

C) Kayden's Law-Aligned Child-Safety Package (34 U.S.C. 10446(c)(1)(P))

1. **Safety-First Presumption:** In any custody/parenting-time order, courts must prioritize child safety when credible evidence of abuse (physical, sexual, coercive control, or serious neglect) is presented; safety findings must be written and explicit.
2. **Evidentiary Guardrails:** Limit admissibility of non-scientific theories (e.g., 'parental alienation' as a diagnosis). Require qualified experts with demonstrable training in child abuse, trauma, and intimate-partner violence; require corroboration standards and trauma-informed child interviews by neutral, trained professionals; allow child input through a GAL or child specialist when age-appropriate.
3. **Interim Protections:** Until safety findings are made, restrict unsupervised contact with alleged abusers; apply a rebuttable presumption against custody for a parent credibly found to have abused the child.
4. **Judicial Training & Certification:** Mandatory, recurring DV/child-abuse education for judges and appointees before hearing contested custody; completion is publicly reported.

5. **Program Scrutiny:** Prohibit court-ordered reunification 'camps' or programs absent peer-reviewed evidence of efficacy and a finding that the program does not endanger the child; require transparent pricing, insurance acceptance or waivers, and written outcome reporting to the court.
6. **Cost Controls:** Sliding-scale fee schedules for court-ordered services; establish a state fund or fee-shifting when the court mandates high-cost interventions so indigency never blocks a safe arrangement.
7. **Penalties:** Provide sanctions for knowingly false allegations and for willful failure to disclose material abuse-related evidence—balanced to avoid chilling legitimate reports.

D) Independent Child-Advocacy & Data Infrastructure

1. **Statewide Office of the Child's Counsel/Advocate (OCA):** Appointed in cases lasting more than 60–90 days or involving abuse allegations; OCA has a statutory right to be heard; child interviews are audio- or video-recorded; OCA may recommend services and challenge unsafe orders.
2. **Custody & Services Outcomes Registry:** Courts and boards must report appointments, costs, providers, outcomes, and complaints; publish annual dashboards; flag repeat-concern providers for enhanced review.

3. Create an Independent Child-advocacy unit embedded in the Court structure.

E) Accountability for Non-Judge 'Quasi-Judicial' Actors

1. Statutorily define and narrow quasi-judicial immunity for non-judges (e.g., therapeutic interventionists, parenting coordinators, evaluators): immunity attaches only for good-faith acts within the four corners of a court order; bad faith, willful misconduct, or acts beyond the order are not immune and are subject to civil liability and licensure sanctions. All appointees must be licensed and insured.
2. Create a direct complaint pathway: a single portal routes complaints about appointees to the correct board and simultaneously logs them in the statewide registry; require inter-agency MOUs (Boards-DCS-AG-Courts) for record-sharing. Send an annual report to the legislature.
3. Add the standard of practice as noted in Kayden's Law.

F) Training, Qualification, and Practice Standards

1. Board-recognized specialty training for anyone seeking court appointments in custody matters (child abuse, trauma, DV, forensic methods). Publish a roster of qualified experts; require ongoing continuing education and Supreme Court-administered refreshers, akin to criminal-court trainings.

2. Evidence-integration duty: Appointees must address contradictory professional reports in writing; failure to do so is sanctionable.
3. Supervision safeguards: Prohibit use of non-enrolled/non-credentialed personnel for any individual acting in a court-appointed role under a license; require that competence be documented and disclosed to parties and the court.
4. Falsification of training requirements is to be considered a criminal offense.
5. The child's wishes regarding legal decision-making and parenting time. If the child is at least fourteen years of age and is sufficiently mature to intelligently and voluntarily express a preference for one parent, the child has the right to select the parent with whom the child chooses to have custody and parenting time. The child's selection is considered presumptive unless the court determines that the child's wishes are not in the best interest of the child. If the child is under fourteen years of age but of suitable age and maturity, the court shall strongly consider the child's wishes regarding custody and parenting time, unless the court determines that the child's wishes are not in the child's best interest. The court must make findings of fact.

G) Judicial Conduct & Reporting Clarifications

1. Clarify mandated-reporting duties for judges: codify that judges must report child-abuse disclosures encountered in proceedings, with

limited discretion; require on-the-record notation of referrals to DCS or law enforcement. Revise mandatory reporting laws.

H) Attorneys' Fees/Cost Structure

1. The Court shall not award any Party greater than 15% of that Party's disposable income (meaning income after traditional cost of living, i.e., Mortgage/rent, vehicle payment, food bill, health and life insurance/vehicle insurance, utilities, routine but affirmed expenses for school, day care, etc). With a cap of \$15,000.00 per case for the life of that case (or collection of cases, or consolidated cases).

I) Reporting Requirements - Funding

1. Mandate annual reporting from the courts and DCS to the legislature, including a detailed itemized summary of all federal grants or funds received and their distribution.

CONCLUSION: The Committee's work revealed consistent concerns about safety, accountability, and affordability in Arizona's family court model. Reform is necessary to ensure transparency, evidence-based practice, and protection of children. The weight of testimony was not only measured in policy gaps but also in human stories.

One such account, submitted by Hope Mater and read aloud by Representative Keshel, illustrates the stakes with devastating clarity. Hope described how her children, Alec (age 7) and Lydia (age 6), were tragically

killed by their father, Brock, after repeated warnings to the court were ignored. Despite documented abuse, a psychiatric hospitalization, and concerning evaluations, the court granted 50/50 custody without meaningful safeguards. Judge Michael Valenzuela dismissed her pleas for medication monitoring, telling her she could 'ask him' directly even though she was the abused spouse. Ultimately, Brock killed both children before taking his own life. This tragedy underscores the systemic failures identified throughout committee hearings: inadequate oversight of professionals, fragmented accountability, lack of child-centered protocols, and judicial immunity that shields negligence from consequence. Alec and Lydia's story is not an isolated incident, but a symbol of why thousands of Arizonans tuned into these hearings and why reform is urgently needed.

The committee concludes: Arizona's family court system must change—placing child safety above all else, ensuring judicial and professional accountability, and preventing future families from experiencing preventable loss.