



---

C R E S C E N T   T I T L E

presents:

# Service & Emotional Support Animals

Course #0058

SPEAKER(s):

\*\*\*\*\*

ATTORNEY(s) AT LAW

# Crescent Title Offices

## METAIRIE OFFICE

1421 N. Causeway Blvd.  
Metairie, LA 70001

**Daniel M. Douglass – Attorney**

Phone: 504-888-1919 – Fax: 504-888-1977

[Danny@CrescentTitle.com](mailto:Danny@CrescentTitle.com)

[LindseyS@CrescentTitle.com](mailto:LindseyS@CrescentTitle.com)

## UPTOWN OFFICE

7835 Maple St.  
New Orleans, LA 70118

**Robert J. Bergeron – Attorney**

**Lauren B. Griffin – Attorney**

Phone: 504-866-5151 – Fax: 866-5858

[Bob@CrescentTitle.com](mailto:Bob@CrescentTitle.com)

[Lauren@CrescentTitle.com](mailto:Lauren@CrescentTitle.com)

[Dexter@CrescentTitle.com](mailto:Dexter@CrescentTitle.com)

## NORTHSHORE OFFICE

1748 N. Causeway Blvd.  
Mandeville, LA 70471

**Kirk J. Frosch – Attorney**

Phone: 985-626-3445 – Fax: 985-626-3704

[Kirk@CrescentTitle.com](mailto:Kirk@CrescentTitle.com)

[Kristi@CrescentTitle.com](mailto:Kristi@CrescentTitle.com)

## LAKEVIEW OFFICE

6270 Canal Blvd.  
New Orleans, LA 70124

**Jason P. Hernandez – Attorney**

Phone: 484-0700 – Fax: 504-484-0710

[Jason@CrescentTitle.com](mailto:Jason@CrescentTitle.com)

[Josie@CrescentTitle.com](mailto:Josie@CrescentTitle.com)

## RIVER PARISHES OFFICE

12 Storehouse Ln., Unit B  
Destrehan, LA 70047

**Abbey A. Mack – Attorney**

Phone: 985-307-1515 – Fax: 985-307-1818

[Abbey@CrescentTitle.com](mailto:Abbey@CrescentTitle.com)

[Monica@CrescentTitle.com](mailto:Monica@CrescentTitle.com)

## HISTORIC OFFICE

831 Elysian Fields Ave.  
New Orleans, LA 70117

**Ian G. Fisher – Attorney**

Phone: 504-218-4679 – Fax: 504-218-4689

[Ian@CrescentTitle.com](mailto:Ian@CrescentTitle.com)

[Josie@creseentitle.com](mailto:Josie@creseentitle.com)

## HAMMOND OFFICE

220 W. Thomas St.  
Hammond, LA 70401

**Matthew R. Emmons – Attorney**

Phone: 985-269-7700 – Fax: 985-269-7701

[Matt@CrescentTitle.com](mailto:Matt@CrescentTitle.com)





Under applicable law:

# No pets allowed.

This includes emotional support animals. Only service animals are permitted.

Under federal law, service animals are dogs or miniature horses trained to perform tasks for people with disabilities. Non-service animals are not allowed in grocery stores by the FDA. Dogs, cats, and other animals whose sole function is to provide comfort, companionship, or emotional support do not qualify as service animals and are not permitted in Publix, even with a doctor's note.

Misrepresenting your pet as a service animal negatively impacts the quality of life and independence for service animal users. Under Alabama, Florida, North Carolina, South Carolina, and Virginia law, it is illegal to fraudulently misrepresent your pet as a service animal.

Due to health and sanitation concerns, please do not place service animals in carts or baskets.



# Applicable Laws

- Americans with Disabilities Act
- Rehabilitation Act of 1973
- Fair Housing Act
- Air Carrier Access Act
- State Law



# Protected Individuals

- Disabled Person
  - A person substantially limited (in relation to the ‘average person’) in one or more major life activities or operations of bodily functions (ex. thyroid, endocrine glands)
  - A person with a record of such a disability (ex. once had cancer)
- Non-Disabled Person
  - A person regarded/perceived as having a disability, but does not actually have one
  - Not protected (in relation to service or assistance animals)
- 75% of disabilities are invisible
  - PTSD
  - Seizure disorder
  - Nut allergy
- Reasonable Accommodation
  - Standard
  - Must be correlated directly to their disability



# Type of Animals Allowed – ADA & Rehab Act

- Service Animals are dogs (or miniature horses) specifically trained to perform a task or service related to a person's disability
- No breed restrictions
- Examples:
  - Guide dog guiding a blind person
  - Alerting people who are deaf
  - Pulling a wheelchair
  - Alerting and protecting a person who is having a seizure
  - Reminding a person with a mental health diagnosis to take prescribed medications
  - Calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack
- Animals not specifically trained to perform a specific service or task are NOT allowed
  - Examples:
    - Comfort animal
    - Emotional companion
    - Therapy animal



No pet fees in 2023! Or ever again...

Register your pet as an emotional support animal and you'll never have to pay pet fees again!  
Which means more treats and toys for your pet 🍪

It's easy to register:

1. Visit <https://www.supportpets.com/esa3>
2. Fill out the short questionnaire
3. Get approved by a medical doctor within 48 hours

Say goodbye to expensive pet housing fees for good >>> <https://www.supportpets.com/esa3>



SAY **NO** TO  
**NO-PET** POLICIES  
AND **EXTRA**  
**PET**  
**RENT**

 ACCREDITED  
BUSINESS  
Rating A

 SUPPORT PETS

<https://www.supportpets.com/esa3>



CONGRATULATIONS!

You're fully qualified to be certified.

**IMPORTANT:** Immediate action required to secure Emotional Support Animal (ESA) certification.

# DIGITAL ESA FROM SUPPORT PETS

Fastest ESA Certification On The Planet



## WHAT'S INCLUDED IN YOUR DIGITAL ESA:

- ✓ ESA certified from a licensed doctor within 48 hours
- ✓ ESA certification includes doctor license & signatures
- ✓ Full federal protection under The Federal Law (FHA)
- ✓ ESA forms for Landlords and management companies
- ✓ FREE Pet Care eBook + Pet Health Guide eBook
- ✓ Get ESA certification on 2nd pet free of charge



**100% SATISFACTION GUARANTEE**  
Delivered in Less Than 48 Hours

### DISCOUNT APPLIED

Regularly ~~\$299~~

**NOW ONLY \$99!**

You must act now before your qualification expires.

First Name

Last Name

Phone Number

Email Address

State You Live In\*

Select

# Type of Animals Allowed – ADA & Rehab Act

## Is a Miniature Horse a Service Animal?

There is often confusion as to whether a miniature horse is considered a service animal under the ADA because Title II and Title III regulations only include dogs in the definition of a service animal. However, both Title II and III regulations also specifically state that a miniature horse is the one exception to a dog that may be considered a service animal. Basically, miniature horses are covered by the ADA as a service animal and should be allowed into public places. There are, however, considerations in determining whether it is reasonable to allow a miniature horse into an area/facility that do not apply to dogs.

A miniature horse, just like a dog, meets the criteria of service animal when it has been **individually trained to perform work or a specific task for the benefit of an individual of with a disability**. However, public places can limit their access based on height and weight, unlike service dogs which have no size or breed restrictions.

Public entities should assess whether it is reasonable to allow a miniature horse into their facilities based on four factors:

- 1) Whether the miniature horse is housebroken,
- 2) If the miniature horse is under the owner's control
- 3) Whether the facility can accommodate the miniature horse's type, size and weight.
- 4) Whether the miniature horse's presence will compromise safety requirements and or operations. (Remember, this must be based upon actual fact rather than speculation or assumptions.)

**Note:** The same requirements established for service dogs regarding issues such as inquiries, identification, and removal apply to miniature horses.

Developed by the Great Plains ADA Center, a member of the ADA National Network  
www.gpadacenter.org adacenter@missouri.edu  
800-949-4232 (IA,KS MO, NE) 573-882-3600

The contents of *Is a Miniature Horse a Service Animal?* were developed under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DP0093). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of *Is a Miniature Horse a Service Animal?* do not necessarily represent the policy of NIDILRR, ACL, HHS, and you should not assume endorsement by the Federal Government.



### Did You Know that Miniature Horses...

Live longer than regular horses: 25-30 years.

Have excellent eyesight, peripheral vision, and see well at night.

Can pull or push heavy objects more easily than most dogs.

Can help stabilize someone with balance difficulties or stop a fall.





# Questions Allowed to Ask- ADA & Rehab Act

- If it is not obvious what the dog does, you may ask 2 QUESTIONS:
  - Is the dog a service animal required because of a disability?
  - What work or task has the dog been trained to perform?
- You MAY NOT:
  - Request medical documentation regarding the dog or the handler.
  - Request an ID card or license from the handler.
  - Ask that the animal demonstrate the task or service it performs.
- Example:
  - Dog smells food to determine if it contains nuts.
  - Person with allergy does not have to say, “I have a nut allergy.”
  - Can just say that their dog is a Medical Alert dog.





# Types of Animals Allowed – Fair Housing Act

- Fair Housing Act protects individuals with “Assistance Animals” who need the animal as a “reasonable accommodation” for use/enjoyment **of a dwelling, which includes all types of housing, except:**
  - Single-family homes rented without using an agent, broker, etc.
  - Rentals with 4 units or less and where one unit is occupied by the owner.
- No size or breed restrictions on dogs and not limited to dogs.
- Examples:
  - Dogs
  - Cats
  - Birds
  - Monkeys
- “Unique animal” – one that is not commonly kept as a household pet.
  - “Substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal”



# Types of Animals Allowed – Fair Housing Act

- Assistance Animals do not have to be specifically trained or certified.
  - Includes emotional support and companionship animals.
  - The animal must alleviate a disability related symptom or need.
- Assistance animals perform many disability-related functions.
- Examples:
  - Guiding individuals who are blind or have low vision
  - Alerting individuals who are deaf or hard of hearing
  - Providing protection or rescue assistance
  - Pulling a wheelchair
  - Fetching items
  - Alerting person to impending seizures
  - Providing emotional support to person with disabilities who have a disability-related need for such support.





# Types of Animals Allowed – Fair Housing Act

- Housing providers must consider:
  - Whether the person requesting to live with the animal has a disability
  - Whether the animal provides assistance to the individual that is related to the disability
- If it is not obvious how the assistance animal helps with an individual’s disability, the housing provider **MAY** ask for:
  - Documentation that states that the individual has a disability, and that the animal provides support for that person, or alleviates a disability-related symptom or need.
  - The documentation can be a letter explaining how the animals assists the individual.
    - Can be from either a physician or **ANYONE** who can attest to the disability (ex. someone who attend a support group with that person)
- You **MAY NOT** ask for this documentation under FHA if it is “obvious or readily apparent” what the animal does for the person.
  - You would not ask a person who is blind or low vision to provide medical documentation on what his guide dog does.
  - There are **NO BREED RESTRICTIONS** with ADA or FHA.
    - Cannot charge a fee
    - Must provide a reasonable accommodation



# Types of Animals Allowed – Air Carriers Access Act

- Service or Emotional Support animals may accompany their handler in the cabin of an aircraft.
  - **Service Animals** allowed **WITH:**
    - Harness, tags or license
    - Other documentation
    - Verbal assurances





# December 2, 2020

## U.S. Department of Transportation Announces FINAL RULE on Traveling by Air with Service Animals

- Defines a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability.
- No longer considers an emotional support animal to be service animal.
- Requires airlines to treat psychiatric service animals the same as the other service animals.
- Allows airlines to require forms developed by DOT attesting to a service animal's health, behavior and training, and if taking a long flight, attesting that the service animal can either not relieve itself, or can relieve itself in a sanitary manner.
- Allows airlines to require individuals with a service animal to provide the DOT service animals form(s) up to 48 hours in advance of the date of travel if the passenger's reservation was made prior to that time.



# December 2, 2020

## U.S. Department of Transportation Announces FINAL RULE on Traveling by Air with Service Animals

- Prohibits airlines from requiring passengers with a disability who are traveling with a service animal to physically check-in at the airport instead of using the online check-in process.
- Allows airlines to require a person with a disability seeking to travel with a service animal to provide the DOT service animal form(s) at the passenger's departure gate on the date of travel.
- Allows airlines to limit the number of service animals traveling with a single passenger with a disability to TWO service animals.
- Allows airlines to require a service animal to fit within its handler's foot space on the aircraft.
- Allows airlines to require that service animals be harnessed, leashed, or tethered at all time in the airport and on the aircraft.
- Continues to allow airlines to refuse transportation to service animals that exhibit aggressive behavior and that pose a direct threat to the health or safety of others.
- Continues to prohibit airlines from refusing to transport a service animal solely based on breed.
- The final rule will be effective 30 days after date of publication in the Federal Register.





# Under ALL Laws

- Service and Assistance Animals can be ANY BREED of dog.
  - Even Restricted Breeds
  - Pit Bull, Rottweiler
- The animal must be under the handler's control.
  - Not leaving a mess
  - Not getting sick
- The animal must NOT be expected to wear a particular type of vest, harness or identification.
- Must NOT charge for a Service or Assistance Animal
  - Even if there is typically a Pet Fee
  - CAN charge for damage that has already occurred
- The handler is responsible for the animal's care.
  - Grooming
  - Vet care
  - Feeding
  - Bathroom breaks



# Under ALL Laws

- The handler and the animal SHOULD NOT be separated, even in cases of emergency.
  - Even if the person has to go to the hospital
  - In that case, hospital must place animal in shelter
- The handler and Service Animal MUST NOT be segregated from the rest of the population due to fears or allergies of others.
- If an animal is CURRENTLY EXHIBITING behavior threatening to the handler or other residents, the animal, may be asked to leave.
  - The handler may not be asked to leave
  - May be considered discriminatory
- The presence of an animal may not be allowed where it can be shown to be an undue burden
  - Financial/fundamental alteration of way business is done
  - Ex. Swamp Tour boat
  - Ex. Restaurant kitchen employee
    - Cannot bring animal into kitchen
    - Must provide alternate accommodations



# Case #1

- *You work at the intake desk at the local animal shelter.*
- *John lives in public housing where pit bulls are banned and has been informed that he has to get rid of his bully breed.*
- *John mentions that his son, who has ADHD, is really attached to the dog – she’s his best friend.*
- *He’s worried about the impact this is going to have on his son.*
- **What do you tell John as he surrenders his beloved dog to your shelter?**
  - It is possible that the dog could be classified as an emotional support animal for his son
  - If he has a letter from a credible source
    - Doctor
    - Clinician
    - Social worker
  - Stating how the dog might assist his son in alleviating a disability-related symptom or need
- **What changes if this is someone who lives in a municipality where pit bulls are banned by law?**
  - Nothing changes
  - Federal law trumps state/local law
  - Remember: breed bans do not apply



# Case #2

- *You are an attorney who specializes in animal accommodation law.*
- *Simon, your client, is paralyzed and uses a wheelchair.*
- *He needs his dog, Spot, to help him carry items and this is obvious because Spot is constantly fetching and carrying items for him.*
- *Although dogs are allowed in his building, Simon has gotten several warnings because he does not keep Spot on a leash and is at risk of being evicted.*
- **What do you tell Simon?**
  - Spot is a service animal for Simon, who is living with a disability.
    - Spot has been trained to perform a task that alleviates a symptom of Simon's disability.
    - Because Simon's disability and Spot's related necessity are obvious, no documentation is needed.
  - The issue here is whether Spot is under his handler's control.
    - Although in general service animals are expected to be on a leash when outside of a dwelling, that's not always feasible depending on the individual's disability.
    - In such circumstances, it is permissible to have a service dog outside a dwelling that is under control by voice commands.
  - Will not be evicted, but the dog may be asked to leave
  - If there is a violation, give the offender a chance to cure



# Case #3

- *You are the manager in a grocery store that does not allow pets*
- *A woman walks into the market with her dog.*
- *The dog is not wearing a vest, badge, or anything else that might indicate it is a service animal*
- *The dog is behaving beautifully.*
  - *Standing right by his handler's side*
  - *Not barking*
  - *Not getting in anyone's way*
  - *Not sniffing a thing*
- *You approach the woman and ask her if she needs the service animal because of a disability*
- *She answers "Yes"*
- *You then ask her what her dog is trained to do*
- *She answers that the dog keeps her calm when she gets too anxious*





# Case #3

- **What do you do next?**
  - In a business setting, only service animals are allowed
  - Service animals are NOT allowed in the grocery CART
  - This is in a public space so Title III of the ADA is the applicable law.
  - A service animal does not need to wear any tags or vests identifying itself as such.
  - The hypo does not tell us whether it is obvious that the woman has a disability and/or related need for a service animal, but assuming she does not, the manager is taking the correct steps to verify a service animal:
    - asking the woman whether she has a disability
    - asking the woman the task the dog is trained to perform (ex/ rub leg, lick face)
      - However, it is unclear whether the response “keeps her calm” means the dog performs a trained task or not.
      - The manager should probe a little deeper and ask for more details about the dog’s task and whether the dog was trained to perform it.
      - If not, then the dog is not a service animal but instead an emotional support animal
        - The manager may request that the patron remove her dog from the market
        - Although he is free to allow the dog to remain.



# Case #4

- *You are the property manager in a multi-family residential building.*
- *A new potential resident has filled out an application for a unit in the building.*
- *When asked about pets, he mentions that he has 5 emotional support animals:*
  - *3 cats*
  - *1 parakeet*
  - *1 ball python*
- **How do you handle this request?**
- **2 issues:**
  - **Multiple Assistance Animals**
    - When a resident makes a request to have more than one assistance animal, assuming the disability and need for each animal is not obvious, the resident will need to provide verification justifying the need for each separate animal.
      - Be mindful not to be overly dogmatic to the detriment of common sense and reasonableness.
      - For example, where a resident in a no-pets building makes a reasonable accommodation request for an assistance animal and has 2 cats (they often come in pairs) but can only justify 1 as an assistance animal, the property is obligated to accept the 1 assistance animal.
    - However, the property manager also has the option of allowing 1 as an assistance animal and admitting the other as a pet, enabling the property manager to charge a pet fee/rent for the 1 pet.
  - **The request to allow a ball python**
    - An exotic species and inherently dangerous animal, particularly living in close quarters to other people and animals.
    - This is not based on generalizations or stereotypes, but on science. Backed with sufficient research, a property manager should be on solid ground rejecting a request for the python, however the property manager should still engage in the interactive process with the potential resident to determine if there are alternatives that can meet the same needs.



# Case #5

- *You own a single-family rental property that does not allow pets and you live in the property and rent out a room.*
- *Your renter has been a model tenant for the past 3 years*
- *She has a new boyfriend who lives across the county and visits every couple of weeks with his little floofy dog*
- *When you remind your tenant that no pets are allowed, her boyfriend says that his dog is an emotional support animal and provides you with all the necessary documentation*
- 
- **What is your decision on this request?**
- The key to this hypo is that the client owns and rents out only 1 single-family home.
- This is one of the narrow exceptions to the Fair Housing Act
  - FHA does not apply to single family unless leased with help of agent, broker, etc.
    - 4 or more where owner does not reside
    - ADA may give rights to visitor
  - As such, neither the resident nor the resident's guests are entitled to FHA protections (such as assistance animals)
- In this instance, the owner is not required to make an exception to the no-pets policy for the ESA.
- However, the landlord should keep in mind that state anti-discrimination law protections may apply, even where federal protections do not, so they should ensure they are abreast of any local developments.



# Case #6

- *You are the property manager in a multi-family residential building*
- *A resident hands you an official emotional support animal card and a letter from a doctor whose name you have seen more times than you can count*
- *A quick internet search shows that this doctor is out-of-state*
- *You are fairly certain that it is coming from one of those online therapists who churns out Emotional Support Animal letters for anyone who pays a fee and takes an online survey*
- **What is your decision on this request?**
- Much to the chagrin of many property managers, the online therapist companies, where customers take an online survey and/or have a brief conversation with a therapist who then provides the customer with a letter “prescribing” an emotional support animal for housing and airplane purposes, **are perfectly legal.**
- Moreover, use of this service, in and of itself, is not proof that someone is fraudulently making a request for an assistance animal.
  - It may mean that the verification is unreliable
  - In that case, the property manager can, within reason, engage in the interactive process and ask for additional verification of the disability and/or related need for the assistance animal.



# Case #7

- *You are the manager in a food court*
- *Someone complains to you about a patron sitting in the food court with her dog*
- *You go over to investigate and notice that the dog is poorly trained*
  - *Eating off the table*
  - *Barking aggressively*
  - *Not staying near the owner*
    - *Not holding leash*
    - *Instead, it is poorly tied to a chair and the dog keeps slipping away*
  - *Scaring other patrons*
- *You ask the woman the 2 questions:*
  - *Is your dog a service animal?*
  - *What task does it perform?*
  - *She answers that the dog is trained to detect drops in blood sugar levels*
- **What do you do?**
- The food court is in a public space and so Title III of the ADA applies.
- The manager asked the appropriate 2 questions and based on the woman's responses:
  - She does have a disability, and
  - Her dog has been trained to alleviate an effect of that disability.
- Once the manager has assured that the patron is not currently experiencing shock and has determined the dog's behavior is not a response to any issue happening with its handler, the obligation to allow the service dog ends there.
- The service dog is behaving poorly and the manager is well within his right to request that the woman remove her service animal from the premises.
  - He still needs to provide her with the food court's goods and services without her dog present
  - He is not obligated to take care or control of the animal.



# Case #8

- *You are sitting on an airplane in the middle seat*
- *Sitting to one side of you is a man with a cat in his lap wearing an “emotional support animal” vest*
- *Sitting to the other side is a woman complaining*
  - *She has allergies*
  - *Concerned that she may go into anaphylactic shock*
- **What do you do?**
- Under the ACAA, only service animals (dogs) are permitted. An emotional support cat is not a service animal and therefore does not have to be permitted on the plane.
- What if it was a dog that qualified as a Service Animal?
  - Under the ACAA, as in all the disability laws, one disability does not get preferential treatment over another.
  - However, in this scenario, the flight attendant should look for alternative seating arrangements for the allergy sufferer, as the man with the Service Animal was already known to the airline prior to boarding.
  - Can they be separated?
  - If not, may need to ground the plane.



# Case #9

- *You are an attorney for a condo board*
- *A prospective buyer visited the building and told his agent that he has a Rottweiler*
- *After conferring with the condo board, the agent found out that the building does not allow pets over 30 lbs.*
- *The prospective buyer then returns with documentation stating that his dog is an emotional support animal*
  - *The documentation is not the kind required under State law*
    - *Under Federal law, documentation from:*
      - *Reliable source*
      - *Support group*
    - *Show the person has a disability*
    - *The animal alleviates disability-related symptoms by performing a task*
  - *The board thinks he is being disingenuous, so they deny the request*
- **2 issues:**
  - **Preemption**
    - Fair Housing Act preempts any state law that provides fewer protections than the federal law.
    - Regardless of whether the documentation complies with the state law, at minimum the condo board must comply with federal law.
    - If the documentation meets the standards of the FHA, then they have to grant the request.
  - **The board's decision to immediately deny the request.**
    - If the board had questions about the request or the verification documentation, they are required to engage in an interactive process with the individual to obtain additional information or determine if an alternate accommodation will be feasible.
    - An individual is not required to accept an alternative accommodation.
    - It is important that the condo board does not unduly delay the interactive process as a means of constructively denying the request.
    - Courts have come across this behavior and have punished the perpetrator for acting in bad faith.



# Case #10

- *You are an attorney who specializes in fair housing discrimination law*
- *Linda has been a resident for 3 years in a building that does not allow pets*
- *The landlord, your client, found out that she adopted 2 cats a couple of months ago and has been hiding them in her apartment*
- *She has been threatened with eviction if she does not remove the cats*
- *Her boyfriend moved out 6 months ago after they broke up*
- *Linda is beside herself and does not know how she will be able to function without her cats*
- *The breakup crushed her, and the cats have been the only reason she gets out of bed in the morning*
- *She tells the landlord the cats are emotional support animals*
- **What advice do you give your client?**
- The attorney should advise the client that Linda's designation of the cats as Emotional Support Animals triggers the beginning of the interactive process
- Under the Fair Housing Act:
  - They may ask for separate documentation for each cat from a credible source
  - They may verify that Linda needs each of the cats to alleviate a disability-related symptom or need.





# Case #11

- *You are a Human Resources manager*
- *A new employee is requesting to bring her emotional support animal to work*
- *She has had trauma in the past and her Emotional Support Animal cat significantly helps her deal with panic attacks that occur from time to time*
- **How do you respond?**
- Because the request is taking place in the context of employment, Title I of the ADA applies and the analysis is more akin to the FHA than Titles II and III of the ADA.
- That is, employees may request, and employers should accommodate animals that do not meet the definition of service animals under the ADA but do meet the definition of assistance animal under the FHA.
- If the disability and related need for the assistance animal is not obvious, the HR manager may request documentation to verify those elements.
- The HR manager will then need to determine:
  - Whether the animal will improve the employee's ability to perform the essential duties of his job
  - The animal will not be a disruptive presence in the workplace, and
  - The accommodation is not an undue hardship
- Example:
  - Adult ADHD
  - Dog helped employee to stay
  - Dog was allowed to stay



# Case #12

- *You have been asked to review a residential management company's service and assistance animal policy*
- *As part of the verification process, the company wants to contact the doctor to confirm:*
  - *The doctor's certifications*
  - *The doctor's relationship with the resident*
  - *The location and duration of the care*
  - *The necessity for the assistance animal*
  - *Other similar facts*
- **How do you respond?**
- Divulging most of this information would be a violation of the Health Insurance Portability and Accountability Act (HIPAA), which has serious consequences for the doctor.
- Assuming that the resident has submitted a signed verification letter, the only information the healthcare practitioner should provide is to confirm his/her certifications and authenticate the letter.
- Moreover, HUD and DOJ guidance documents state that housing providers should not request a resident's medical records or access to medical providers.
- The law is "need to know" basis
  - Do not need to know specifically what the disability is or who is treating the disability
  - Only need to know:
    - The animal performs a task
    - Alleviates a symptom or need



# Case #13

- *You are watching the evening news*
- *A story airs about a veteran with PTSD who has a service animal that she trained herself to help her deal with flashbacks and severe distress*
- *She takes her dog with her everywhere she goes*
- *She stopped by a gas station convenience store one day and the store owner would not let her bring her service dog in because they do not allow pets*
- *Even after the veteran told her this was a service dog*
- *The store owner claimed that the veteran never did show him the service dog ID card and that is why he did not let the service dog in*
- *He said in the future he will only allow animals in the store in they have the proper identification*
- **How do you respond?**
- The news story highlights several misconceptions that the general public has concerning the protections afforded to service animals under the ADA.
- Service animals can be trained by their owners, can be any breed, and are not obligated to have any particular type or registration or ID.
- Does not matter who trained the dog
- It is ok for the handler to train the dog herself
- All the clerk can ask:
  - Is the dog a service animal?
  - What task does it perform?



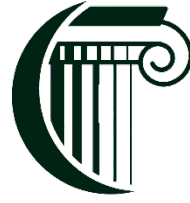
# Case #14

- *You manage a 12-unit apartment complex with a strict no-pets policy but understand that under federal and state fair housing law, you may need to make an exception for a disabled resident who requires a service animal as a reasonable accommodation.*
- *There is a resident at the apartment complex who has a visitor staying with her for a few weeks.*
- *The visitor has a dog that accompanies her everywhere and appears to be staying in the resident's apartment with her.*
- *When the resident was asked about the dog, she said that her guest is disabled and that the dog is a service animal.*
- **Do you have to allow the visitor's service animal?**
- Under the FHA, you are required to allow a tenant's visitor to bring a service animal into the rental unit as a reasonable accommodation for the visitor's disability, assuming all other requirements of the act are met.
- The FHA extends not only to renters, but also to persons "associated" with the tenant. Therefore, a tenant's visitor is protected because that visitor is associated with the renter. Tenants are entitled to the full use and enjoyment of their housing, which includes having guests visit.
- May ask for documentation that states that the visitor has a disability, and that the animal provides support for that person, or alleviates a disability-related symptom or need.





**After listening to his owner drone on for hours, Ralph suddenly realized he was NOT cut out to be an emotional support dog after all.**



---

C R E S C E N T   T I T L E

**Thank you for joining us!**  
**Please don't forget to sign out!**

Keep up to date with us at:



[www.CrescentTitle.com](http://www.CrescentTitle.com)



@CrescentTitle



@CrescentTitle



@Crescent-Title