

## **Where Does the Sidewalk End and the ADA Begin?**

[Tony Mauro](#)

[American Lawyer Media](#)

02-24-2003

The next major battleground over the scope and meaning of the Americans with Disabilities Act may be the public sidewalk.

In *City of Sacramento v. Barden*, No. 02-815, which goes before the U.S. Supreme Court at its private conference this Friday, the issue is whether the 1990 federal disabilities law requires local governments to overhaul existing sidewalks to make them more accessible to the disabled. In an amicus curiae brief filed in the case, the National League of Cities warns of "dire fiscal consequences" if the high court answers yes.

But Sacramento, in its appeal to the Supreme Court, argues strenuously that the law does not cover sidewalks. "Services are something that can be received by the public, and programs or activities are things that citizens participate in," asserts Roy Englert Jr., a partner at Washington, D.C.'s Robbins, Russell, Englert, Orseck & Untereiner, on behalf of Sacramento. "No one receives or participates in a sidewalk." With apologies to the songwriters, Englert invokes the words of the 1894 song "Sidewalks of New York" to suggest that in lyrics as well as in statutory interpretation, regarding sidewalks as a program or service would be a stretch.

**To view the entire article, click on the link below.**

[Where Does the Sidewalk End and the ADA Begin?](#)