

2006 WL 3741935  
Only the Westlaw citation is currently available.  
United States District Court,  
D. Massachusetts.

COMMONWEALTH OF MASSACHUSETTS, National Federation of the Blind, Inc., National Federation of the Blind of Massachusetts, Inc., Adrienne Asch, Jennifer Bose, Theresa Jeraldi and Philip Oliver, Plaintiffs,  
v.  
E\*TRADE ACCESS, INC., E\*Trade Bank, Cardtronics, LP, and Cardtronics, Inc. Defendants.

No. Civ.A. 03-11206-MEL. | Oct. 10, 2006.

#### Attorneys and Law Firms

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#### Opinion

LASKER, J.

**\*1** The defendants have moved for “clarification” of the Court’s February 24, 2006 Order. They propose that “the Court should clarify that plaintiffs’ cause of action in Count V, ADA § 12183(a)(1), requires plaintiffs to prove ATMs are attached to building constructed after January 19, 1993.” The proposal is denied.

The plaintiffs are correct in stating, in response to the motion for clarification, that “the Court concluded that Plaintiffs have established that the Cardtronics-owned ATMs at issue—all of which are installed after January 26, 1993—fall within the parameters of the new construction mandate”, and that “[a]fter extensive briefing by the parties, the Court ruled that “‘relevant regulations and guidelines issued by the DOJ and the Access Board seem clearly to establish that built-in ATMs are *facilities* covered by the new construction mandate.” ’

I recognize that there are strong arguments in support of defendants’ position that §12183 (a)(1) may be construed to require plaintiffs to prove that ATMs are attached to buildings constructed after January 19, 1993, but I find the arguments proffered by the plaintiffs to be more persuasive on this unexplored subject.