

Website Accessibility Lawsuits on the Rise

In our e-commerce age, lawsuits complaining that business websites are not accessible to vision-impaired users in violation of Title III of the Americans with Disabilities Act (ADA) or state laws are on the rise. In 2016, over 240 lawsuits - the majority of them class actions - were filed against companies alleging violations of the ADA for failure to maintain websites accessible to the blind and visually impaired. The industries most susceptible to these lawsuits have been retail, hospitality, and financial services. On June 13, 2017, the U.S. District Court for the Southern District of Florida ruled after a bench trial that a major U.S. supermarket chain violated the ADA because its website was inaccessible to a visually impaired customer. The U.S. District Court for the Southern District of New York recently refused to dismiss a website accessibility claim against a fast-food restaurant chain, ruling that "the text and purposes of the ADA ... suggest that defendant's website is covered under the ADA, either as its own place of public accommodation or as a result of its close relationship as a service of defendant's restaurants". See Case No. 17-cv-00788 (S.D. N.Y. July 21, 2017).

From 2017 to 2018, ADA website related lawsuits increased 181% according to UsableNet's report. Over 2,200 cases have been filed nationwide, seen most in New York, Florida and Pennsylvania. In 2019, there have been numerous lawsuits relating to disabilities and the accessibility of websites. ·

Throughout the country, the courts are split as to how to rule upon such cases. Most recently at issue is whether a website is considered a "public accommodation" like a physical store within the meaning of the ADA. As of now, the 1st, 2nd, and 7th Circuit Courts of Appeals agree that "a website can be a place of public accommodation regardless of any connection to a physical space," according to Hunton Andrews Kurth. However, the 3rd, 6th, 9th, and 11th Circuit Courts of Appeals have taken a different approach. In contrast, these courts held that "a website is not a public accommodation, unless it has a sufficient connection to a physical public accommodation." Those circuits take a different approach to accessibility, claiming that if a disabled customer can obtain service through one of a business's operations, then the business will not be held liable for other alleged shortcomings. This interpretation is likely to cause much controversy for employers in regards to ADA accessibility issues.