



ADA Web Accessibility Lawsuits **What You Should Know**

In the last couple of years, over 800 lawsuits have been filed in federal courts (including at least 300 in New York alone) against businesses for allegedly having websites that do not comply with Title III of the Americans with Disabilities Act ([ADA](#)).

Typically, these lawsuits allege that the defendant is a "place of public accommodation", as defined under Title III (there are 12 categories, including places like restaurants, movie theaters, grocery stores, and senior citizen centers). By not making its website equally usable by a person with a disability, the lawsuits allege that the defendant prevents equal access to the accommodations offered to non-disabled persons (such as by not allowing the plaintiff to shop online).

Federal courts have been divided over the question of whether the ADA applies to websites, or just to goods and services offered at a physical location. However, a pair of 2017 District Court decisions in New York denied motions to dismiss by the Five Guys and Blick Art Materials chains on the basis that their websites were not covered by the ADA without a connection to what they offered at stores.

In the Five Guys case, the court found that the ADA applied to Five Guys' website either as its own place of public accommodation or as a service of the Five Guys' restaurants (noting that the website allowed online ordering and that the plaintiff had tried to do so).

In the Blick case, the court held that requiring a direct physical connection to a store would create legal outcomes that it did not believe the ADA intended, such as only requiring Blick to provide accessible information about products that could be purchased in-store.

The above decisions suggest that federal courts in New York may take an expansive view of the ADA as it relates to business websites. Because the law is developing, businesses risk being sued by aggressive plaintiffs' attorneys who allege discrimination against potential customers because their websites are not fully accessible to everyone.

Earlier this month, over 100 members of Congress sent a letter to the Department of Justice asking it to state publicly that ADA lawsuits regarding business websites violate due process rights absent federal regulations stating how the ADA applies to websites. While the federal government has not issued such regulations, and it remains to be seen whether it will do so in the future, businesses may still take action to reduce their exposure to lawsuits.

One course of action is to have websites designed to comply with the Web Content Accessibility Guide ([WCAG](#)) standards, which were developed by the Web Accessibility

Initiative ([W3C](#)). In the Five Guys case, the court noted that the plaintiff proposed that the defendant could implement WCAG to remedy its alleged website discrimination.

The WCAG standards include four principles:

1. Information and user interface components must be presentable to users in ways they can perceive.
2. Make all functionality available from a keyboard.
3. Make text content readable and understandable.
4. Content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies.

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