Published on *The National Law Review* https://www.natlawreview.com

ADA Does Not Require Websites Be Accessible, Appeals Court Holds

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A website is not a “place of public accommodation” within the meaning of Title III of the Americans with Disabilities Act (ADA), a federal appeals court has held in a groundbreaking decision on disability discrimination. And an inaccessible website is not necessarily equal to the denial of goods or services. Gil v. Winn-Dixie Stores, Inc., No. 17-13467 (11th Cir. Apr. 7, 2021).

Website access class action lawsuits have proliferated in recent years. Businesses being sued have ranged from small “mom and pop” restaurants to Fortune 50 corporations. The surge began in 2016, with more than 260 suits filed. The numbers swelled after a federal court in Florida, in June 2017, held that a regional grocery chain must ensure its website is ADA-compliant. As such, this decision is welcome news to businesses operating in the Eleventh Circuit.

The decision is especially favorable for entities that operate fully online businesses, as “it holds that a website itself is not a place of public accommodation to which the ADA applies,” write Mendy Halberstam, Joseph Lynett, and Rebecca McCloskey, in their detailed analysis of the decision. In addition, they note, brick-and-mortar businesses that provide alternative means for disabled patrons to obtain goods and services, such as in-person or by phone or email instead of just through a website, also will find good points in the court’s decision.

As the authors advise, “it remains to be seen whether other circuits will follow or that the court’s decision will be favored with respect to state disability laws. Businesses must carefully scrutinize the interplay between federal and state disability laws in order to determine the correct course.”

National Law Review, Volumess XI, Number 100