

Publications

Eleventh Circuit Limits Reach of ADA Accessibility Requirements Online

Related Professionals

[George L. Stevens](#)

Related Services

[Labor and Employment](#)

Related Industries

[Retail and Consumer Products](#)

CLIENT ALERT | 4.30.2021

In a recent decision, the Eleventh Circuit **held that Winn-Dixie did not violate the Americans with Disabilities Act** by operating a website inaccessible to blind individuals. *Gil v. Winn-Dixie Stores, Inc.* involved a blind individual who sued the grocery chain after he was unable to refill his prescriptions online or link digital coupons to his rewards card because the Winn-Dixie website was incompatible with his screen-reader software.

The ADA prohibits discrimination on the basis of disability by denying an individual the equal opportunity to enjoy a place of public accommodation's goods, services, or privileges. The Eleventh Circuit, joining the Third, Sixth, and Ninth Circuits, held that a "place of public accommodation" under the ADA must be a physical place. However, the Court noted that an inaccessible website may still violate the ADA if it serves as an "intangible barrier" to the goods, services, or privileges available at a physical place. In this case, the Court found that the website's inaccessibility did not serve as a barrier to any of Winn-Dixie's goods or services because the website was not a point of sale, and all interactions with Winn-Dixie (even those initiated online) required a trip to a physical store to be completed.

A spirited dissent admonished the majority opinion for interpreting the ADA too narrowly. Instead, the dissent argued that the plaintiff received "inferior" treatment from Winn-Dixie because he could not enjoy the privacy or convenience of filling his prescriptions online or linking digital coupons to his rewards card.

The decision comes as a pleasant surprise for businesses in all industries—but especially retailers—harried by **the recent wave of "surf-by" suits**. However, the case provides only limited protection from future litigation, as the Court's reasoning depended largely on the fact that Winn-Dixie did not offer any products or services for sale on its website. Brands who do sell products or services online should ensure their websites are accessible to individuals with disabilities.

Vorys can assist in maintaining an accessible website. We can recommend third-party consultants to evaluate a website's accessibility and educate the brand on maintaining accessibility. Additionally, we can assist in preparing an [Accessibility Statement](#) for the website to mitigate the risk of litigation.

Contact your Vorys lawyer if you have questions about ADA accessibility requirements or litigation.