

## Publications

### *Labor and Employment Alert: Plaintiff Scores a Landmark Victory in ADA Public Accommodations Website Accessibility Trial*

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**CLIENT ALERT** | 6.15.2017

This week a federal judge in Florida passed down one of the most historic Americans with Disabilities Act (ADA) website accessibility decisions to date, finding that Winn-Dixie was liable under the ADA because its website was inaccessible. In *Gil v. Winn-Dixie Stores, Inc.* (available [here](#)), the plaintiff argued that Winn-Dixie's website was inaccessible to visually-impaired individuals and thus violated the ADA because features such as the website's online coupons and pharmacy could not be accessed using a screen reader. The Court ruled in favor of the plaintiff on all issues and awarded injunctive relief and attorneys' fees.

The Court found that the website was a "gateway to the physical store locations" because it was heavily integrated with the physical store locations. The Court noted that the services offered on Winn-Dixie's website—which included online coupons, store locators, and pharmacy services—were "undoubtedly services, privileges, advantages, and accommodations" within the meaning of the ADA.

The Court then determined that the website was "inaccessible to visually impaired readers who must use a screen reader," relying almost exclusively on the plaintiff's expert witness. Plaintiff's expert testified that if the World Wide Web Consortium Accessibility Guidelines (WCAG 2.0) were satisfied "all of the issues/problems found on the Winn-Dixie website" would be addressed. Based on this testimony, the judge ordered that Winn-Dixie make changes to its website to ensure compliance with those Guidelines.

The Court's decision to apply the ADA to a website because of a "substantial nexus" to a physical store location is not new, even though courts are split on this issue. What is new and significant is that the *Winn-Dixie* Court held that the WCAG 2.0 standard applies when considering a website's ADA compliance. There are no federal regulations requiring that the WCAG 2.0 standard be met, and at least one federal court has rejected website accessibility claims premised on that standard as an appropriate measure of website accessibility. Here, the Court found exactly the opposite and required not only that the

website become compliant with the WCAG 2.0 standard, but that website audits occur every three months to ensure such compliance.

While other website accessibility cases have been brought, all have either settled or been dismissed. The *Winn-Dixie* case represents the first instance where a case has gone to trial and is the first case where a Court has ordered compliance with a particular standard to comply with the ADA. If you have received a letter from a plaintiff's attorney alleging ADA violations or have not yet examined your website for accessibility under the ADA, contact your Vorys lawyer.