



**July 2018**

## **11th Circuit Determines Informational Websites for Places of Public Accommodation Are Subject to ADA**

On July 31, the U.S. Court of Appeals for the 11th Circuit issued a precedent-setting decision regarding how websites are viewed under Title III of the Americans with Disabilities Act of 1990 (ADA). In *Dennis Haynes v. Dunkin Donuts LLC, et al.*, No. 18-10373, \_\_\_ F. 3d \_\_\_ (11th Cir. 2018), Dunkin Donuts conceded that its shops are places of public accommodation covered by the ADA but argued that its website is neither a place of public accommodation nor a good, service, facility, privilege, or advantage of its shops, and therefore its website is not covered by the ADA. The 11th Circuit disagreed, holding that a website that provides information about the goods, services, facilities, advantages, or accommodations of a place of public accommodation is a service that facilitates the use of the place of public accommodation. Specifically, the 11th Circuit held “the website is a service that facilitates the use of Dunkin’ Donuts shops which are places of public accommodation. And the ADA is clear that whatever goods and services Dunkin’ Donuts offers as a part of its place of public accommodation, it cannot discriminate against people on the basis of a disability, even if those goods and services are intangible.”

The opinion also covers other information and services often located on websites—features that allow customers to identify physical locations of stores and the ability to purchase gift cards online. “The failure to make those services accessible to the blind can be said to exclude, deny, or otherwise treat blind people ‘differently than other individuals because of the absence of auxiliary aids and services’” the 11th Circuit wrote, referring back to the court’s long held precedent that “[t]he prohibition on discrimination is not limited to tangible barriers that disabled persons face but can extend to intangible barriers as well.”

This opinion will likely increase the number of ADA and civil rights lawsuits being brought against businesses that are defined as places of public accommodation (including, but not limited to, hotels, restaurants and bars, motion picture houses and theaters, concert halls, banks, retail stores, museums and galleries, private schools, day care centers, sports venues, recreational facilities, and health spas) over the accessibility of their websites. In light of this decision, businesses may wish to evaluate their websites to determine if they are accessible and take steps to ensure accessibility. For more information, businesses should consider consulting with legal counsel experienced in compliance with the requirements of Title III of the ADA.

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