



Eleventh Circuit District Court Finds Company Websites are Intangible Barriers Under ADA Title III

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In September 2022, the District Court for the Southern District of Florida entered judgments against businesses for alleged failures to maintain company websites in compliance with Title III of the Americans with Disabilities Act (“ADA”). The opinions provide guidance to businesses in the Eleventh Circuit on ADA Title III website responsibilities.

In *Lucius v. ILOV305 I, LLC* and *Ariza v. South Moon Sales, Inc.*, the plaintiffs alleged the defendant businesses violated ADA Title III because their websites were not fully and equally accessible to visually impaired individuals. Because the defendants did not file answers or otherwise respond to the lawsuits, the plaintiffs moved for default judgment.

On September 7, 2022, a magistrate judge for the Southern District of Florida recommended the court enter default judgments against the defendants in both cases. In determining the plaintiffs stated valid claims under ADA Title III, the court found persuasive the Eleventh Circuit’s rationale in *Gil v. Winn-Dixie Stores, Inc.* that websites alone are not a “place of public accommodation” for purposes of the ADA Title III. The court, however, relied heavily on the Eleventh Circuit’s unpublished panel decision in *Haynes v. Dunkin’s Donuts, LLC* to conclude the businesses violated ADA Title III because the inaccessibility of their websites served as “an intangible barrier” to the services provided by their physical, brick-and-mortar stores.

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In *Lucius*, the plaintiff alleged the website allowed users to purchase goods and gift cards and informed users of the business's hours and location. Similarly, in *Ariza*, the plaintiff alleged website users could learn about the business's physical location, purchase merchandise and gift cards, and sign up for a customer rewards program. The plaintiffs alleged, however, the defendants' websites were not compatible with screen reader software and, thus, the services offered on the websites were not accessible to visually impaired individuals.

The District Court for the Southern District of Florida adopted the magistrate judge's report and recommendation in *Lucius* and *Ariza*. In both cases, the court (1) found the inaccessibility of the websites were intangible barriers to services of a public accommodation in violation of Title III; (2) ordered the companies to alter their websites and ensure future accessibility for visually impaired individuals; and (3) awarded attorney's fees, costs, and litigation expenses to plaintiffs.

The cases serve as a reminder that businesses with a physical, brick-and-mortar location should ensure their websites are fully accessible and compliant with ADA Title III.