

Small Business Notes

Minnesota Department of Employment and
Economic Development (DEED)

First Decision in Lawsuit on Website Accessibility Under Federal Americans With Disabilities Act

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- **First Decision in Lawsuit on Website Accessibility Under Federal Americans With Disabilities Act**

On June 12, 2017 the United States District Court for the Southern District of Florida handed down its decision that a business' website that was inaccessible to a visually impaired plaintiff violated the Americans with Disabilities Act ("ADA"). The case, which is believed to be the first such case to go to trial, is *Juan Carlos Gil v. Winn-Dixie Stores, Inc.*, Civil Action No. 16-23020.

Title III of the ADA prohibits the owner of a place of public accommodation from discriminating "on the basis of disability in then full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation."

It was undisputed by the parties that Gil was disabled with a substantial visual impairment, and undisputed that Winn-Dixie stores are places of public accommodation. The court's decision noted that although Winn-Dixie does not engage in sales transactions on its website, that website was heavily integrated with physical stores locations since it allowed customers to access digital coupons, refill pharmacy prescriptions, and locate the closest Winn-Dixie store from among the four hundred ninety five stores in the chain. These services are, the court went on, clearly the kind of services...privileges... accommodations covered by the ADA. For that reason, it was not necessary for the court to determine if the website itself was a public accommodation; its integration with services provided at physical locations was enough for ADA coverage.

The court also noted that the anticipated cost to make the website accessible to visually impaired persons (estimated to be \$250,000) "pales in comparison to the \$2 million Winn-Dixie spent in 2015 to open the website and \$7 million it spent in 2016 to remake the site." Likewise the fact that third party vendors operate certain parts of the website "is not a legal impediment to Winn-Dixie's obligation to make its website accessible to the disabled."

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The court provided injunctive relief including:

- That Winn-Dixie adopt and implement a web accessibility policy which ensures that its website conforms with the WCAG 2.0 criteria;
- That any third party vendors participating on the website also conform with WCAG 2.0 criteria;
- That the website provide a direct link to Winn-Dixie's accessibility policy and also provide a means of submitting accessibility questions and problems;
- That Winn-Dixie conduct accessibility tests of its website at least every three months.

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