

Client Alert

Business Information for
Clients and Friends of
Shumaker, Loop & Kendrick, LLP

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Website Compliance with the ADA - Emerging Threat of Litigation

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Over the last few months, a number of plaintiff's law firms have sent demand letters to companies claiming that the company's websites aren't accessible to disabled users, and thus violates Title III of the Americans with Disabilities Act ("ADA").

A common letter offers to negotiate "on an expedited basis" a settlement that requires a calculator to add up the costs. The proposed relief includes conducting a needs assessment on the website, contracting with approved third-party web developers to conform the existing site to several "ADA accessibility standards," monthly third-party testing and monitoring for extended periods (i.e. five years), and implementing new ADA accessibility policies and staff training. And, of course, payment of "reasonable" attorney's fees and costs.

Entering into proposed settlement agreements like this probably won't protect your business from other individual or class claims, or an enforcement suit brought by the Department of Justice (DOJ).

While these demands are viewed by some commentators as a shakedown, the issue is real. The law in this area is evolving, and businesses may face some liability from individuals or the government. But that won't be clear for awhile. For now, caution is the best way to respond to any threats from plaintiff's lawyers. We're glad to advise you on how to respond to such a letter.

We can also help you reduce the potential for future exposure. Unfortunately, there aren't any clear standards yet for what is proper website accommodation for the disabled under the ADA. In 2010, the DOJ announced it would issue regulations, but it's now said that the process won't begin until 2018. The World Wide Web Consortium has published guidelines regarding best practices for website accessibility, and following those guidelines can help reduce liability or exposure to demands. Examples of such guidelines involve providing text alternatives for any non-text web content and making all website functionality available from a keyboard.

We're glad to advise on this and to suggest other proactive steps you can take to limit future exposure.

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