

California Court Grants Summary Judgment in Website Accessibility Case

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As we've noted in [previous posts](#) from Kelley Drye's [Ad Law Access blog](#), there has been an increase in lawsuits alleging companies have violated the Americans with Disabilities Act because their websites aren't accessible to the blind. This week, a California court granted summary judgement in one of these suits.

Last year, a plaintiff filed a suit against Bag & Baggage, arguing that he was not able to use the retailer's website because it wasn't accessible to the blind. In its order, the court noted that the



plaintiff had “presented sufficient evidence and legal argument to conclude Title III of the ADA applies to plaintiff’s use of a website where plaintiff has demonstrated he sought goods and services from a place of public accommodation because he demonstrated a sufficient nexus exists between defendant’s retail store and its website that directly affects plaintiff’s ability to access goods and services.” Further, the plaintiff had “presented sufficient evidence that he was denied full and equal enjoyment of the goods, services, privileges, and accommodations offered by [the retailer] because of his disability.”

The court ordered the retailer to pay the plaintiff \$4,000 and to take the necessary steps to make its website “readily accessible to and usable by visually impaired individuals or to terminate the website.” Because the law allows the plaintiff to recover attorney’s fees and costs, the price tag is likely to be much higher.

As we’ve predicted before, these types of cases are likely to continue. If you aren’t sure whether the ADA applies to your site or whether it’s accessible to the blind, now may be the time to find out. Getting a sense of whether your site can be navigated using a screen reader will provide a better sense of whether the site could be considered a “low hanging fruit” for plaintiffs to find.