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First Federal Trial on Website Accessibility: Winn-Dixie Violates ADA

Legal Update

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On June 13, Judge Robert Scola, Jr. released his Verdict and Order following a non-jury trial: the defendant Winn-Dixie violated Title III of the Americans with Disabilities Act (ADA) as its website was not accessible to the plaintiff Joan Carlos Gil, a blind individual who uses the JAWS screen reader to access website content.

First of its Kind and Deep-Dive Into Website Accessibility, ADA and WCAG2.0

This Verdict and Order is especially significant, as this is the first federal court to hold a full trial regarding website accessibility as it relates to the ADA and visually impaired users, to make findings of fact, to effectively adopt the WCAG2.0 standard as the measure of a compliant website and to award a detailed injunction.

Highlights

The case title is *Juan Carlos Gil v. Winn-Dixie Stores, Inc.*, U. S. District Court of the Southern District of Florida, Case No. 16-23020. Here are some highlights and first-impressions:

- **WinnDixie.com:** Winn-Dixie operates a regional chain of grocery stores, some of which include pharmacies. The website, winndixie.com includes features such as a store locator, coupons. Plaintiff Gil shopped at Win-Dixie 30-40 times through the years, but was unable to access certain information and functionality through the website such as the store locator and coupons.
- **Winn-Dixie Responsible for Third-Party Components and Tools on Website, Such as a Store Locator Tool, Checkout/Payment Tool and Loyalty/Points Program:** *“The Court also finds that the fact that third party vendors operate certain parts of the Winn-Dixie website is not a legal impediment to Winn-Dixie’s obligation to make its website accessible to the disabled. First, many, if not most, of the third party vendors may already be accessible to the disabled and, if not, Winn-Dixie has a legal obligation to require them to be accessible if they choose to operate within the Winn-Dixie website.”*
- **Legal Conclusion, ADA Applies:** Due to the Link Between the Website and Winn-Dixie Stores, Title III of the ADA, applicable to “Public Accommodations,”

applies.

- **Remedy:** Plaintiff may recover **attorney fees**.
- **Injunction:** *"The website must be accessible by individuals with disabilities who use computers, laptops, tablets, and smart phones."*
- **Injunction:** Winn-Dixie must adopt and post an **Accessibility Policy** *"to ensure the persons with disabilities have full and equal enjoyment of its website and shall accompany the public policy statement with an accessible means of submitting accessibility questions and problems."*
- **Injunction: Yearly Accessibility Training for IT Staff:** *"No later than [date to be determined], and at least once yearly thereafter, [Winn-Dixie] shall provide mandatory web accessibility training to all employees who write or develop programs or code for, or who publish final content to, www.winndixie.com on how to conform all web content and services with WCAG 2.0 criteria."*
- **Third Party Content on Website Must Meet WCAG2.0:** *"No later than [date to be determined], [Winn-Dixie] shall require any third party vendors who participate on its website to be fully accessible to the disabled by conforming with WCAG 2.0 criteria."*

This decision, particularly in light of its adoption of the WCAG2.0 standard, will impact the way businesses think about compliance and risk mitigation. However, court guidance remains far from clear given conflicting federal court decisions, such as the Domino's case, regarding application of the ADA to websites, apps and similar communication technologies.

Additional commentary and guidance from Fredrikson & Byron regarding website accessibility can be found [here](#).