

MUNICIPAL LAW**GOVERNMENTAL ENTITIES SHOULD IDENTIFY AND REMOVE POTENTIAL ADA ACCESSIBILITY BARRIERS ON THEIR WEBSITES**

by Emily A. Rysberg

Governmental entities need to be wary of law firms claiming to represent unidentified web users who allege that the entity's website violates the Americans with Disabilities Act (ADA) because of accessibility barriers for visually challenged web users. Generally, these attorneys will identify specific barriers that they claim violate ADA "standards," encourage the entity to take remedial measures, and – of course – pay the law firm to avoid litigation, including attorney fees and costs.

Title III of the ADA imposes a general accessibility mandate upon places of public accommodation. It states that no "individual shall be discriminated against on the basis of disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation," but no specific technical standards have been issued regarding ADA website compliance. The United States Department of Justice (DOJ) has only issued "guidelines" in the form of an accessibility checklist/best practices toolkit (ADA Checklist). Similarly, the Web Accessibility Initiative of the World Wide Web Consortium has developed guidelines for voluntary website accessibility, known as the "WCAG" standards to guide software developers to provide web content and services more accessible to vision challenged individuals. While both the ADA Checklist and WCAG standards provide useful guidelines, neither constitutes an enforceable regulation.

However, it appears that technical standards for website accessibility compliance may be finalized in the near future. The DOJ issued its Advance Notice of Proposed Rule Making entitled, "[Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations](#)." If adopted, these proposed regulations, which include website standards, will be binding.

Even without enforceable standards, an entity can be liable under the ADA for non-compliance. Governmental entities with websites providing online services should take action now to assess and improve the accessibility of their websites. To that end, governmental entities may wish to conduct an internal review of their websites to ensure that the websites comport with commonly accepted guidelines, such as the ADA Checklist and WCAG standards, or consider contacting a company that specializes in such compliance reviews.

Because of the possibility of significant penalties and other costs, local government entities receiving "demand letters" alleging ADA website compliance violations should consult their attorneys for guidance before responding to the letters

This client alert is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the field of municipal law. The content is informational only and does not constitute legal or professional advice.

FOR MORE INFORMATION CONTACT:



Emily A. Rysberg is Of Counsel in Dickinson Wright's Grand Rapids office. She can be reached at 616-336-1041 or erysberg@dickinsonwright.com.



Scott G. Smith a Member in Dickinson Wright's Grand Rapids office. He can be reached at 616-336-1044 or ssmith@dickinsonwright.com.



Nicholas Curcio is an Associate in Dickinson Wright's Grand Rapids office. He can be reached at 616-336-1048 or ncurcio@dickinsonwright.com.