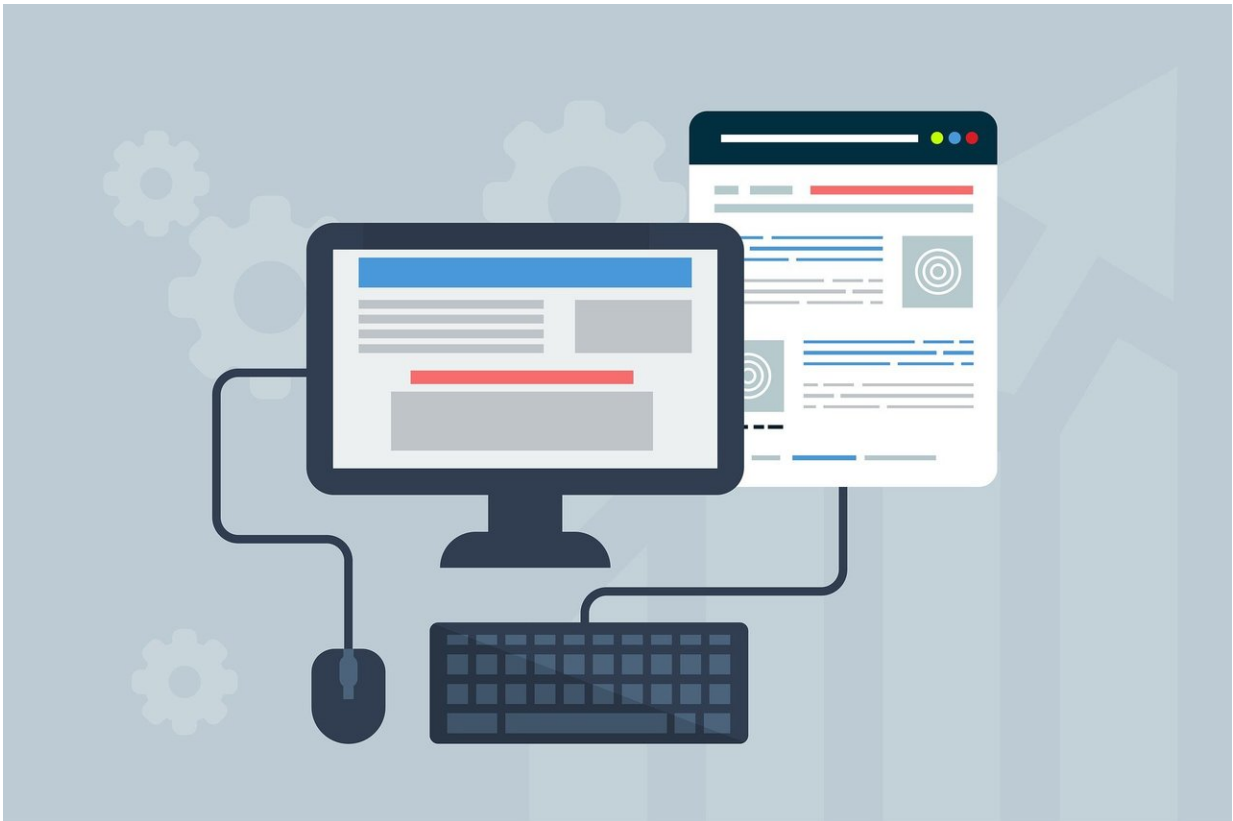


# Lawsuits targeting company websites for ADA violations on the rise

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Credit: CC0 Public Domain

The Americans with Disabilities Act does not stop at ramps and railings. Websites also have ADA requirements to ensure universal access to public accommodations.

Peace Coffee found that out the hard way last year when the Minneapolis-based business was hit with a class-action lawsuit.

"The [website](#) is not equally accessible to blind and visually impaired consumers," the federal suit read. "Plaintiff still intends to purchase certain goods and/or services from defendant's website in the future, but currently cannot."

This precise language has shown up in hundreds of lawsuits, many brought by the same lawyers and plaintiffs accusing businesses of denying accommodations to blind and visually impaired people.

And those kinds of lawsuits are on the rise; online ADA compliance lawsuits have quadrupled since 2018, according to accessibility firm AccessiBe.

Most businesses likely need to change something on their [web pages](#) to be fully compliant. An annual survey of the million most-visited websites found 96.3% do not meet accessibility requirements as of February, according to WebAIM, part of the Institute for Disability Research, Policy and Practice at Utah State University.

But there are no technical standards for digital ADA compliance in federal law. The government relies on guidelines developed by the internet's international standards organization.

"We are kind of in this nebulous space where any detected error could be considered discriminatory," Jared Smith, director of WebAIM, said. "When the reality is it may not have a noticeable user impact."

So for companies facing [legal action](#), "it's like being pulled over and getting a speeding ticket on a street with no speed limit signs," Smith said. "That said, if you're going 80 in a school zone it's hard to argue you

weren't going that fast."

Most ADA website cases are settled, resulting in a more accessible website—and fees for the plaintiff's attorney.

It can cost thousands to settle these types of suits, said Troy Hutchinson, a Minneapolis-based attorney and partner at Rock Hutchinson. Brands should be proactive and have their website audited and upgraded if needed.

"It will save you at least \$10,000 by doing this—plus it's the right thing to do," Hutchinson said. "I'm wanting people not to have to call me."

The Minnesota Department of Agriculture has grants available that can cover half the cost of bringing websites into ADA compliance for Minnesota-based farms and food, beverage and pet food brands with fewer than 500 employees.

## **'Serious consequences'**

The U.S. Department of Justice, which oversees ADA compliance, since 1996 has "consistently taken the position that the ADA applies to web content," the department states.

The [federal government](#) reiterated last year that it relies on standards first developed by the World Wide Web Consortium in the 1990s and updated several times since. The Web Content Accessibility Guidelines (WCAG) are enforced to varying degrees around the world.

"When individuals in the U.S. have sued businesses with websites that aren't accessible, under the Americans with Disabilities Act, courts have required those websites to reach WCAG 2.0 Level AA compliance," AccessiBe says. "That means that the best way to comply with ADA is

by following the WCAG."

"Inaccessible websites face serious legal consequences," the company warns. "Accessibility is good for business, and compliance is required of everyone."

Smith said awareness has grown in the 20 years his group has been tracking online accessibility.

"We're seeing a hard push for innovation and growth in web pages, and that makes it difficult for accessibility to keep up," he said. "It's not prioritized the same way as security or design and is sometimes a bit of an afterthought."

Lawsuits are seen as the primary way to effect change and improve online ADA compliance. Smith said these suits range from "clear discrimination" to "frivolous."

The Peace Coffee case was settled last fall, according to court documents, and CEO Lee Wallace could not speak on the matter. The accessibility issues outlined in the suit related to an electronic screen-reader being unable to read the top banner of the web page or page title correctly; unlabeled links and buttons; and links not opening when pressing the enter key.

It was one of hundreds of similar lawsuits filed by Mizrahi Kroub LLP in New York over the past few years. The law firm says "we pride ourselves on protecting the rights of the average consumer and disabled individuals" and has recovered over \$1 billion for clients.

The firm did not respond to requests for comment.

According to a virtual test by Sitemorse, which checks websites for

accessibility compliance, mizrahikroub.com "fails" several WCAG measures of accessibility.

AccessiBe considered the law firm's website "semi-compliant" with WCAG.

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