The ADA and Website Accessibility Post-Domino's: Detangling Employers' & Business

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Companies that offer goods and services online or otherwise maintain an online presence continue to face an onslaught of website accessibility lawsuits. Plaintiffs with disabilities allege companies' websites are discriminatory because the websites are incompatible with assistive technologies, like screen readers for the visually impaired. Plaintiffs have sued private defendants in federal court under Title III of the Americans with Disabilities Act (ADA) and, in some cases, under similar state and local laws as well. The exposure in these cases entails not only the possibility of injunctive relief requiring extensive modifications to defendants' websites, but also, under some state and local laws, damages to the aggrieved plaintiffs,
defense costs, and payment of the claimants' attorneys' fees.

These “surf by” claims have raised serious questions about whether, when, and how website owners must comply with the ADA. Neither Congress nor the U.S. Department of Justice (DOJ) has articulated the precise technical requirements for website accessibility under Title III. As a result, the applicability of the ADA to websites (and mobile applications) has come under intense judicial scrutiny, resulting in conflicting rulings during the past several years. Business groups hoped that the Supreme Court would hear the *Robles v. Domino's Pizza, LLC* appeal and issue a decision that would end—or at least minimize—the tsunami of website accessibility lawsuits that have been filed nationwide. Since that did not happen, the waters remain murky. With the pace of these suits showing no signs of slowing, and with no clear guidance on the horizon, it is critical that every business operating a website consider how to manage the growing risk of litigation.

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