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Employment Law Update: Employers Should Examine their Websites To Avoid The Filing of Website Accessibility Lawsuits

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Employers take note: web accessibility lawsuits are on the rise. Many of these lawsuits were filed by website “testers,” individuals who access business websites to determine whether they are compliant with the [Americans With Disabilities Act \(ADA\)](#) in various ways.

In 2023, approximately 4600 lawsuits regarding website accessibility were filed, an increase of more than 60% from 2022. Most of these ADA website accessibility lawsuits were filed in New York courts. New Jersey business owners should note that a business does not need to be located in New York in order to be sued; it only needs to have customers from New York. Moreover, the first federal website accessibility lawsuits were filed in New Jersey in 2023.

A Plaintiff Tester’s Case Goes to the Supreme Court

On December 5, 2023, the United States Supreme Court (“Supreme Court”) decided [Acheson Hotels, LLC v. Laufer](#), a case that concerned whether an ADA website accessibility plaintiff tester had standing to sue a hotel because its website did not comply with the ADA’s Reservation Rule.

A plaintiff has “standing” when the plaintiff has suffered a harm so that the plaintiff has a right to “stand” before the court.

The Reservation Rule requires hotels to provide information about the hotel and services in enough detail so that a given hotel or room guest can determine whether the hotel services meet that person’s accessibility needs.

The plaintiff tester, Deborah Laufer, who lives in Florida, had no intention of making an actual reservation or staying at the hotel run by Acheson Hotels in Maine. She tested the Acheson Hotels’ website to see if it complied with the Reservation Rule. Since Ms. Laufer did not intend to stay at the hotel in Maine, the question for the Supreme Court to resolve was whether the Ms. Laufer did in fact suffer sufficient injury to have standing.

Before the Court had an opportunity to decide the case on the merits, Ms. Laufer withdrew her case because her attorney was investigated and then suspended from the practice of law for engaging in improprieties. Ms. Laufer represented to the Court that she would not file any similar lawsuits.

Web Accessibility Testers Continue to File Lawsuits

The Supreme Court held that the Acheson plaintiff tester’s suit was moot because she withdrew it. The Court then remanded the suit to the lower court to be vacated and dismissed. This decision leaves the issue of standing for plaintiff testers to be determined in a future ruling. In the meanwhile, plaintiff testers can continue to file suits over accessibility of websites, even if they never intend to use the goods or services provided by the businesses’ websites whom they visit.

TAKEAWAY: Employers should ensure that their websites are ADA compliant to avoid the risk of a plaintiff tester filing a lawsuit against their business. If you are an employer and have questions about ADA website

compliance or any federal or New Jersey employment law, contact [Stephanie Girona](#) or any member of the Wilentz [Employment Law](#) Team.

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