



# What Dealerships Need To Know About Website Accessibility Lawsuits

Insights

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In a recent [web alert](#), we discussed the compliance challenges that many dealerships face when dealing with employees with disabilities. However, as many dealers have found, the Americans with Disabilities Act (ADA) does not apply to employees only. Title III of the ADA prohibits discrimination based on a disability in places of public accommodations.

Those claims generally involve customer complaints relating to tangible physical barriers, such as bathroom accessibility issues (such as toilets in the wrong place relative to a sidewall or partition, or toilet paper towel dispensers at improper heights) and parking lots (such as the slope of the ramps, or the locations for handicapped parking spaces). But they can also include issues relating to a purely digital domain.

## Websites Can Create Legal Landmines

In recent years, we have seen a wave of lawsuits and demand letters claiming that certain commercial websites are inaccessible to users who are vision- or hearing-impaired, and thus violate Title III of the ADA. For example, a blind person who uses a screen reader to access a website may be unable to do so because the website's content is not coded to convert information (including text, images and videos) to an audible format.

You may think that website accessibility for blind customers isn't an issue for a car dealership. However, we have seen a wave of lawsuits against dealers over these precise issues. So far, these lawsuits have been primarily brought in Florida, New York, and California, but they can surface anywhere.

What makes this a complicated field is the lack of guidance. When the ADA was enacted in 1990, the World Wide Web had just been invented and the internet was not what it is today. As a result, the law does not specifically address website accessibility.

Courts, however, have interpreted the ADA as applying to all publicly accessible websites used by companies that would otherwise apply as places of public accommodation. While a number of states have also passed legislation or published guidance governing website compliance, there is still no federal standard. For now, most have adopted the Web Content Accessibility Guidelines (WCAG) 2.0 as the standard for public commercial websites.

From a practical perspective, websites are generally maintained and updated by marketing department personnel or others lacking the technical skills to comply with WCAG 2.0, which makes compliance a nightmare. Even if a website is initially set up to be WCAG 2.0 compliant, it will often not remain compliant for very long once new content is added or edited by someone without technical expertise.

### **The Dangers Of A Digital Lawsuit**

When a website accessibility lawsuit is filed, the aggrieved party generally asks the court to require that the website be fixed to become compliant. The cost of making a website accessible could range from several thousand dollars to hundreds of thousands of dollars, depending on the complexity of the project, making it cost prohibitive for some. On top of that, however, plaintiffs can also seek an award for attorneys' fees and costs, including the cost of a website expert. Depending on what state you are in, plaintiffs may also seek additional remedies available under local law.

Many plaintiffs file lawsuit after lawsuit for technical violations against different companies. These lawsuits have targeted big and small businesses across different industries, including the dealership industry. And because these plaintiffs can attempt to access your website from anywhere in the country, you never know where the danger might come from.

### **5-Step Compliance Plan**

So, what can dealerships do to prevent these lawsuits? Here is a five-step plan to get you started down the path to compliance.

1. **Audit.** Test and audit your website to see where you stand. You can start with free accessibility tools available online to give you a sense of issues with your website, but we recommend you also retain a third-party expert. They can provide an in-depth report on accessibility issues, along with invaluable insight on how to fix those issues.
2. **Remediation.** Work with your third-party expert and IT team to make your website accessible.
3. **Maintenance.** This is perhaps one of the most important steps. You need to continue monitoring your website so it *remains* accessible as content is added or edited. To do so, you should train employees who may have access to edit the website on these issues. Also consider periodic self-audits or third-party audits.
4. **Documentation, Documentation, Documentation.** Document your process, as employees may leave the dealership or forget the details of steps taken to improve the website.
5. **Stay In Touch.** There are sure to be changes to this law. Continue to [subscribe to Fisher Phillips' alerts](#), and stay in touch with one of our attorneys for updates on best practices for how to handle this law.

### **Conclusion**

Website accessibility lawsuits are on the rise and are not going away. It is best to address these issues up front before a lawsuit is filed. Failure to do so can result in significant time spent

defending against lawsuits and sizable expenses in attorneys' fees and costs.

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