

Federal Court Allows Class Action Website Disability Access Case to Proceed Against An Employer

Article By:

Joseph J. Lynett

Audrey S. Olson

While we continue to wait for guidance from the government on website accessibility standards, plaintiffs continue to challenge the accessibility of company websites. For years, individuals have brought lawsuits claiming that their access to goods and services is limited under Title III of the Americans with Disabilities (“ADA”). More recently we have seen individuals challenge their access to employment under Title I of the ADA due to online application processes that they claim are not accessible.

In a recent case out of the Northern District of Ohio, *Kasper v. Ford Motor Company*, the U.S. District Court for the Northern District of Ohio allowed a class action to proceed against an employer based on allegations that the company’s on-line application process was not accessible and the company did not provide an accessible accommodation request process. While the case is far from over, it offers a good reminder of three questions employer should consider:

Do your applicants as a practical matter have to apply online to be considered for employment?

Is your website accessible to disabled application, especially those applicants with visual disabilities?

Do you offer an effective accommodation process for individuals to request accommodation where they are unable to use the on-line application process?

In *Kasper*, the company provided an accommodation process to the online application process but *Kasper* claims that the process itself was limited due to website accessibility issues. Requesting an accommodation involved calling a hotline listed on Ford’s website. Next to the hotline number, Ford’s website instructed users to leave their contact information and details about the job in which they were interested. *Kasper*, however, claimed that his cognitive disability prevented him from providing the required job information via the hotline, as he could not access the necessary information about the job from Ford’s website.

Kasper v. Ford Motor Co. is just one of the recent cases that has emerged in the website accessibility arena under Title I of the ADA prohibiting employers from discriminating against applicants and

employees on the basis of a disability. Since this area of law appears to be receiving increased attention, employers may want to review their online employment application process (including their mobile apps) to determine whether disabled applicants have an equal opportunity to participate in the application process.

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