

ADA Website Litigation: Eleventh Circuit Holds Website is Not Subject to Title III

Article By:

Alec Kraus

Brett F. Clements

Matthew B. Mock

Plaintiffs are filing an [increasing number of lawsuits](#) against companies alleging that their websites violate Title III of the Americans with Disabilities Act (ADA) because the sites are not accessible to visually impaired customers. But these lawsuits assume an answer to an unresolved question: does Title III apply to websites? Title III applies to “places of public accommodation” and prohibits discrimination on the basis of an individual’s disability. Yet neither the statute nor the accompanying regulations state that websites are places of public accommodation, leaving courts (or Congress) to determine whether websites are required to comply with Title III.

Federal courts [disagree](#). The Ninth and Eleventh Circuits – the only two circuit courts to have answered this question – are split. District courts in other circuits are also split.

Before the Eleventh Circuit’s recent decision in *Gil v. Winn-Dixie Stores, Inc.*,^[1] federal courts had generally taken one of two approaches. The Ninth Circuit and district courts in the Third^[2] and Sixth Circuits have held that only physical places count as places of public accommodation, but that websites still must comply with Title III if the website has a sufficient “nexus” or connection to a physical place, like a store. Courts following this so-called nexus standard have determined that a website violates Title III if the website prevents disabled individuals from accessing a physical store’s services or privileges – for example, if disabled individuals cannot use a website’s store locator tool. District courts in the First, Second, and Seventh Circuits have reached a similar conclusion but on a different basis: they have held that websites themselves must comply with Title III as places of public accommodation.

In *Winn-Dixie*, the Eleventh Circuit held that Title III applied only to physical locations and rejected the Ninth Circuit’s nexus standard. The court also held that the plaintiff’s alleged inability to access the defendant’s website was not discriminatory because the plaintiff could access the defendant’s physical stores without using the website, and the website did not sell any items.

Winn-Dixie creates a split between the Ninth and Eleventh Circuits as to whether websites must

comply with Title III. Because district courts are similarly split, *Winn-Dixie* may lead to an eventual decision by the United States Supreme Court.

Background on *Winn-Dixie*

Winn-Dixie Stores, Inc. operates grocery stores with on-site pharmacies. Winn-Dixie also has a website where customers can refill existing prescriptions and link digital coupons to a rewards card. Notably, however, Winn-Dixie does not sell any items through its website, and customers must pick up prescriptions at a physical store.

The plaintiff refilled his prescriptions at Winn-Dixie stores and sometimes used paper coupons with his in-store purchases. Because the plaintiff is visually impaired, others helped him gather coupons. After years of shopping at Winn-Dixie, the plaintiff found Winn-Dixie's website but alleged he could not use it because it was incompatible with screen reader software.

The plaintiff claimed that Winn-Dixie's website violated Title III. The plaintiff argued that the website must comply with Title III because (1) the website is a "place of public accommodation," or, alternatively, (2) the website has a sufficient nexus to Winn-Dixie's physical stores, which are places of public accommodation. Without deciding whether the website is a place of public accommodation, the district court determined that the website has a sufficient nexus to Winn-Dixie's stores because the website is "heavily integrated" with and "operates as a gateway to" Winn-Dixie's physical stores.[3] Because the plaintiff allegedly could not use Winn-Dixie's website, the district court determined that the website violated Title III. The Eleventh Circuit reversed.

The Website is Not a Place of Public Accommodation

By way of background, Title III of the ADA prohibits, among other things, owners or operators of "a place of public accommodation" from discriminating against an individual on the basis of their disability "in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation." [4]

The Eleventh Circuit determined that Title III is "unambiguous and clear" and that "public accommodations are limited to actual, physical places." [5] Title III lists places, including grocery stores, that are places of public accommodation but does not mention websites. [6] As a result, the court held that the plaintiff's alleged inability to use Winn-Dixie's website itself did not violate the ADA.

The Website Does Not Otherwise Violate Title III

The plaintiff also argued that his alleged inability to use Winn-Dixie's website violated Title III because (1) the website had a sufficient nexus to Winn-Dixie stores and (2) the website discriminated against the plaintiff by impeding his access to Winn-Dixie stores. The court disagreed.

First, the Eleventh Circuit rejected the nexus standard the Ninth Circuit adopted in *Robles v. Domino's Pizza, LLC*. [7] In *Robles*, the Ninth Circuit determined that Domino's website had a sufficient nexus to its physical stores because the website allowed customers to find Domino's stores and order pizza online. In contrast, Winn-Dixie held the Eleventh Circuit declined to adopt the nexus standard by stating that it "[found] no basis for it in the statute or in [Eleventh Circuit] precedent." [8] The court then distinguished Winn-Dixie's website from Domino's website by noting

how there were no sales through Winn-Dixie’s website, and Winn-Dixie’s website did not impede customers’ access to goods and services at physical stores.

Second, the court determined that the plaintiff’s alleged inability to use Winn-Dixie’s website did not result in discrimination under Title III, distinguishing its decision in *Rendon v. Valleycrest Products*.^[9]

In *Rendon*, the Eleventh Circuit determined that, under a plain reading of Title III, discrimination can result from “intangible barriers,” which may include “eligibility requirements and screening rules or discriminatory policies and procedures that restrict a disabled person’s ability to enjoy the defendant entity’s goods, services and privileges.”^[10] The court also stated that an intangible barrier can include a “failure to act”— where a defendant “refuses to provide a reasonable auxiliary service that would permit the disabled to gain access to or use its goods and services.”^[11]

For example, the court determined an intangible barrier existed in *Rendon* where the defendant selected game show contestants solely through an automated hotline that individuals with mobility or hearing impairments could not access.

That was not the case in *Winn-Dixie*, where the court determined that no obstacles prevented the plaintiff from enjoying the goods and services of Winn-Dixie stores. Winn-Dixie’s website had “only limited functionality,” and customers had to make all purchases and pick up all prescriptions at a physical store, which the plaintiff had done for many years.^[12] As a result, the court held that the plaintiff’s alleged inability to use Winn-Dixie’s website was not discrimination under Title III.

In short, it was significant in *Winn-Dixie* that the plaintiff could access Winn-Dixie stores without using the website and that the website had limited functions – specifically, that the website did not offer any sales. Because federal courts disagree on whether a website must comply with Title III, *Winn-Dixie* may lead to an eventual decision by the Supreme Court.

[1] 993 F.3d 1266 (11th Cir. 2021).

[2] District courts within the Third Circuit have adopted different approaches. Although the Western District of Pennsylvania has held that websites are places of public accommodation, the Eastern District of Pennsylvania has rejected this approach and has applied the nexus standard. See *Murphy v. Bob Cochran Motors, Inc.*, No. 1:19-cv-239-SPB, 2020 U.S. Dist. LEXIS 177593, at *4–5 (W.D. Pa. Sep. 28, 2020) (citing cases).

[3] *Gil v. Winn-Dixie Stores, Inc.*, 257 F. Supp. 3d 1340, 1349 (S.D. Fla. 2017).

[4] 42 U.S.C. § 12182(a).

[5] *Winn-Dixie Stores*, 993 F.3d at 1276–77.

[6] 42 U.S.C. § 12181(7); see also 28 C.F.R. § 36.104.

[7] 913 F.3d 898 (9th Cir.), cert. denied, 140 S. Ct. 122 (2019).

[8] *Winn-Dixie Stores*, 993 F.3d at 1281.

[9] 294 F.3d 1279 (11th Cir. 2002).

[10] *Id.* at 1283.

[11] *Id.* at 1283 n.7.

[12] *Winn-Dixie Stores*, 993 F.3d at 1279.

© 2025 ArentFox Schiff LLP

National Law Review, Volume XI, Number 208

Source URL: <https://natlawreview.com/article/ada-website-litigation-eleventh-circuit-holds-website-not-subject-to-title-iii>