

The Americans with Disabilities Act (ADA) & Web Accessibility

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On March 6, the **U.S. Department of Justice** announced that a consent decree with **H&R Block** had been entered requiring the company to establish accessibility of its websites and mobile apps under the **Americans with Disabilities Act**. The decree resolves the department's allegations that individuals with disabilities are denied full and equal enjoyment of the company's tax-preparation focused goods and services provided online.

The Department of Justice intervened in the suit filed by the **National Federation of the Blind** and two plaintiffs against the company. While H&R Block does not admit liability, under the terms of the decree they will pay \$22,500 to the plaintiffs and a civil penalty of \$55,000 to the DOJ. In addition, the company agreed to implement a number of changes, including hiring a skilled web accessibility coordinator, adopting a web accessibility policy, and evaluating employee and contractor performance based on successful web access programming.

The suit was brought pursuant to Title III of the ADA, which prohibits discrimination on the basis of disability by public accommodations in the full and equal enjoyment of goods, services, facilities, privileges, advantages and accommodations. Up until now, courts have been split about the extent to which Title III of the ADA applies to websites operated by places of public accommodation. While this suit was brought pursuant to Title III, employers should take note of the decision and how it relates to Title I, which governs discrimination related to employment. The H&R settlement serves as a reminder that disability-related discrimination no longer just occurs in real life, but also online.

Employers subject to the ADA (those with 15 more employees) are required to make reasonable accommodations to individuals with disabilities in order to enable them to participate in the workplace. The accommodation process starts **before** employment even begins. Employers must make sure that if they promote a job or allow for an online application process that their website is accessible to those who may have hearing impairments, low vision or blindness, motor or neurological disorders. An organization called the World Wide Web Consortium has developed Web Content Accessibility Guidelines, commonly referred to as WCAG 2.0, that can serve as technical standards for making internet content accessible to the disabled.

No longer is it enough for an employer to make a building ADA accessible; they must also make their online presence accessible, too, for both employees and private citizens.

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