

Litigation Alert: Supreme Court Denies Review in Landmark ADA Case on Website Accessibility — What Does this Mean for Your Business?

October 11, 2019

Earlier this year, we issued a litigation alert^[1] reporting on the Ninth Circuit Court of Appeals' opinion in *Robles vs. Domino's Pizza*, No. 17-55504, 913 F. 3d 898 (9th Cir. Jan. 15, 2019). The Robles case is like thousands of nearly identical lawsuits brought in recent years against private businesses under Title III of the Americans with Disabilities Act (ADA). In these cases, the plaintiffs typically seek injunctive and monetary relief under the ADA, including attorneys' fees, alleging the defendant's websites and mobile applications are not sufficiently accessible to the blind and visually impaired.

In our prior alert, we reported that the Ninth Circuit ruled against Domino's, holding the ADA applies to the development of private websites and mobile applications and requires them to be accessible to the blind and visually impaired. The conundrum for Domino's and other businesses targeted with these lawsuits is that the federal government has yet to provide clear guidance on the accessibility standards that must be met in order to comply with the ADA. In ruling against Domino's, the Ninth Circuit reversed a lower court decision that absolved Domino's from ADA liability in the absence of clear standards from the government.

On Monday, October 9, 2019, the United States Supreme Court denied Domino's petition for review of the Ninth Circuit's decision. This means the Ninth Circuit's decision remains undisturbed, and Domino's must remediate its website and mobile applications to make them more accessible.

By electing not to weigh in on this important subject, the Supreme Court has left private businesses further exposed to website ADA claims, which may cause a surge of such claims in the coming months. In 2018 alone, more than 2,200 lawsuits (more than 6 per day) were filed against private businesses asserting website accessibility claims. Given the recent disposition of the Robles case, businesses have even more reason to take action now to make their websites and mobile applications adequately accessible to the blind and visually impaired.

Gray Plant Mooty has advised a number of clients in this area and has developed strategies to both defend and guard against them. Please contact us if you or a business owner you know would like to discuss what can be done to maintain appropriate levels of website and mobile app accessibility, and to safeguard against

these types of claims.

[1] See "Litigation Alert: The ADA and Website Accessibility — The Latest Chapter"