Transcript: Understanding Website Accessibility Litigation, Richard Hunt. AccessibilityPlus 2022.

Good afternoon. I'm Richard Hunt. I'm going to explain website accessibility litigation, something that is often misunderstood and also overhyped. But first, we have a few legal matters to attend to starting with this disclaimer. My partner and my wife is a specialist in legal ethics, so I have to be careful about these ethical things.

I'm going to give you opinion and informations today. I'm not going to advise anyone about particular situations and when this is over, if you have questions, I would ask that you not mention names of companies or your specific case.

If you want information that specific, call me or email me later today. We're talking about general information, not specific legal advice. Second, a little more about me. Like most lawyers, I love to talk about myself, but I'll keep it brief.

I'm a trial lawyer with 40 years of experience. In the last ten years or so, I have focused my practice on disabilities matters under the Americans with Disabilities Act and the Fair Housing Act. And of course, that includes disabilities lawsuits related to websites under the ADA.

What I'm going to tell you today is based on my experience. It's based on talking to other lawyers in the same space, and it's based on reading, I think, almost every written decision on these matters since about 2015.

With that, let's get started with today's agenda. Here's what we're going to cover and what will take about 45 minutes. First, why we're here. Very briefly, an explanation of why you probably think this is interesting. Since we're here, we don't have to spend a long time on that.

Then we'll cover the laws regarding accessible websites. Title III of the ADA dominates in this area, but it's helpful in understanding Title III to look at the other laws concerning website accessibility. We're going to look at some fascinating but often irrelevant legal issues.

The reason to talk about these is because they're fascinating and also to understand why they are usually irrelevant. Following that, we'll talk about what to do if you get sued, which may be the subject that's of most interest to business website operators and to those who work with them.

Finally, we'll talk about managing litigation risk and specifically why that isn't a good way to think about accessibility. But that will the reason I say that will become clear when we get there. What we need to do right now is start with why we are here.

This chart shows the annual rate of filings for new website litigation cases. I got the data from Accessibility.com and other sources. As you can see, though, in around 2016 to 2017, there was an explosive rise in the number of website accessibility lawsuits.

The curve flattened after 2018, but after a post-COVID break, it looks like it's on the rise again. Now that's the kind of growth that prompts headlines and concerns, and I assume that's why you're here today. After all, in the first 25 years of the Americans with Disabilities Act, there were only a handful of website litigation cases, and now we're at a rate of more than 3300 a year. To understand why these numbers are what they are and how we got here, we can start by looking at the laws that govern website accessibility.

Most of this discussion is going to be about Title III under the ADA. As I said, because that's more than 90% of the private lawsuits brought in the United States. However, other laws can be important. They may affect your particular business, but also because understanding Title III litigation is easiest when we understand how it differs from litigation under these other statutes or the requirements of these other statutes. So we're going to cover five sources. really four plus a disclaimer. We'll talk about Section 508 of the Rehabilitation Act, the Air Carrier Access Act, Title II of the Americans with Disabilities Act, Title III of the Americans with Disabilities Act, and finally, state and local laws.

No, that's the disclaimer part. There are so many state and local laws concerning accessibility that there simply isn't time to cover them today. They can be of importance in lawsuits in New York and California, particularly particularly state court lawsuits in California.

But I found that the issues that we need to talk about can be dealt with adequately just by looking at the first four federal statutes, which, after all, have a more general applicability than any state or local law.

So let's turn first to Section 508 and its key characteristics. first, it allows private lawsuits against some recipients of federal funds, so it is a place where you could have a private lawsuit. And in fact, in fact, Section 508 claims turn up frequently in lawsuits against entities that may also be subject to Title III or Title II. It does include an explicit statutory requirement for accessibility of websites and other electronic information, and it includes an explicit regulatory definition of what accessibility means. And it's basically the equivalent of WCAG 2.0 AA. So the key facts about the Rehabilitation Act, there's no doubt that it covers websites, at least for those who are covered by Section 508. And there's no doubt what it requires. The Air Carrier Access Act is worth touching on briefly, because although there is no private cause of action, air carriers do constitute a significant chunk of the economy.

It applies to airlines and some associated operations. This in this statute, there is no explicit statutory requirement for accessibility, but there is an explicit regulatory

requirement that is, the Department of Transportation Regulations require that airline websites be accessible and there's a specific regulatory definition of accessibility.

Once again, more or less equivalent to WCAG 2.0 sucess level AA. So even not only are there no private lawsuits allowed under the ACAA, but regulatory matters are relatively easy to deal with because if you are an airline, you know exactly what your obligations are, they're defined by the statute and the regulations.

Title II of the ADA covers municipal governments, local governments and state agencies. Basically, everything that's not the federal government. It does not have an explicit statutory requirement concerning accessible websites. That is like the rest of the ADA, It never mentions the internet or websites at all.

However, it is pretty clear that something it does cover, which are programs of these various governmental entities, would include websites of these governmental entities. So with Title II of the ADA, there's really no doubt that accessibility is required for their websites because those websites are programs.

However, what it means for a website to be accessible is unknown. There is no regulatory definition of website accessibility under Tite II of the ADA. The Department of Justice started to publish regulations that would have defined website accessibility in very similar terms to WCAG 2.0 success level AA.

But those were canceled in the early months of the Trump administration, and they haven't been revived yet. So municipalities that are sued for having an inaccessible website can be fairly clear that they are liable for it, but they may not know exactly what that means they're supposed to do.

That brings us to Title III three of the ADA, which is where most of those 4000 lawsuits a year are coming from. First, it covers all businesses that are open to the public. There's a much more specific definition of the statute, but that's the easiest way to think of it.

However, that comes with a disclaimer. It may not apply to only online businesses. So that's the element of uncertainty that we don't have with any of these other laws. We don't know exactly who it covers. There is no explicit statutory requirement that websites be accessible.

Once again, the ADA never mentions websites or the internet. There is no explicit regulatory requirement that websites be accessible. Once again, the regulations that would have said all websites must be accessible were terminated in 2017 and haven't been revived.

And finally, there's no regulatory definition of what accessible means. So we don't know, legally speaking, what it means to have an accessible website. We don't know for sure if any business is actually required to have an accessible website, and we don't know if online businesses are even covered by Title III of the ADA.

Now, maximum uncertainty, and that's what Title III certainly gives us is what plaintiffs lawyers like. Businesses can defend lawsuits if they know what they are supposed to do and they know what their obligations are. It gives them a chance to analyze what their options are. It gives them a chance to decide what they should do.

If you have maximum uncertainty, then businesses with maximum uncertainty are more likely to want to settle. As we'll see, that is the point of Title III ADA website litigation. The point is to drive settlements. This uncertainty is one reason why the United States Chamber of Commerce and other business groups have been lobbying to have either statutory or regulatory definitions of accessibility. But we just haven't gotten them yet. So right now we have uncertainty and as a result of uncertainty, we have a lot of lawsuits. That uncertainty in under Title III extends to some legal issues that are important.

They're important for two reasons. One is, in some cases and in some places, we actually know what the answers to these questions are. So if you're a defendant in an ADA website lawsuit in the right place with the right judge, you may have a good idea of where you stand.

Also, we know that people in my profession, lawyers, who love to litigate, will frequently say that they know the winning answer to these issues, and they will promote that the fact that they know the winning answer to these issues as a reason why they should be hired.

I don't want to encourage you necessarily to hire me, but for reasons I'm going to explain, I want to discourage you from hiring anyone who says they know all the answers. So what are the key legal issues in website litigation?

First, are internet only businesses covered by Title III? As I said, that's an open question. Second, if only website websites associated with the physical business are covered by the ADA? That's one possibility. What kind of association matters? That, too, is an open question.

What does it mean to say a website is accessible? As I said, there is no statutory or regulatory definition of accessibility. When can a business offer alternatives to a website as a way to comply with Title III of the ADA? In many other aspects of accessibility, a business can offer what amounts to the cheapest alternative that's equally effective. Can that be done with websites? We don't know for sure. And finally, what kind of harm must the plaintive suffer in order to have the right to sue under Title III? Now that's not strictly speaking an ADA website litigation question or even an ADA question.

We'll see if it's a constitutional question. But because of the way ADA website lawsuits are filed, it's an important question in almost every website lawsuit. Let's start with these. one at a time and just talk about where we are with the law or where we aren't.

Are internet only businesses covered? Some say yes. Notably courts in the 2nd Circuit, where many ADA Title III lawsuits were filed, have tended to say that yes, the ADA covers internet only businesses. Some say no. Notably, the 9th Circuit, which covers California, which is where probably most ADA website lawsuits were filed.

The 9th Circuit says an online only business is not covered by the ADA. Now, that seems like a pretty important question. Why do I think it's irrelevant for most cases? Well, if you have an online only business, the odds are that you are doing business in the 2nd Circuit because you have customers in New York.

So even if your headquarters is in Los Angeles, you can't take any comfort from that fact because you can be sued in a court that thinks that your online business is covered by the ADA. It's a fascinating question if the Supreme Court were to ultimately rule that the ADA did not cover online businesses.

That's not beyond the realm of comprehension, then we would have a very important definitive ruling. But for now, online businesses can't take much comfort in the fact that this is a hot legal issue because in the places where it's not a hot legal issue, they can be sued.

Next issue. What about websites of physical businesses? The 9th Circuit holds that a website that is associated with a physical business may be covered by Title III of the ADA and therefore have to be accessible. The problem is that there are at least four theories about why the ADA applies to these websites based on different statutory provisions in the ADA. And as it turns out, picking the legal theory that makes your website have to be accessible because it's associated with a physical place of business has implications for how accessible the website has to be.

And that's played out recently in the 11th Circuit, which has adopted a very restrictive theory about why websites have to be accessible. And as a result has adopted what seems to be a rule that would really limit the amount of accessibility required of a website.

Elsewhere in the country, courts have taken a much more expansive view and essentially adopted theories under which the entire website must be fully accessible if it's connected with a physical place of business, no matter how tenuous that that connection with the physical place of business might be.

So in any case, this is an uncertain issue. The answer may depend on which court you're in. What does it mean for a website to be accessible? We don't have a regulatory definition. The Department of Justice starting at around 2010 has in private settlements, said the WCAG either 2.0 or 2.1 at success level AA was good enough to satisfy the ADA. There are probably by now hundreds of private settlement agreements and private litigation that take the same position.

However, I do not believe there is any court that has definitively ruled that complying with WCAG 2.1 at success level AA will satisfy Title III of the ADA. And

there's a good reason why not. After all, WCAG 2.1 AA exists between a single A and Triple A success levels.

The triple A success level proves that you can have websites that are more accessible. And the single A success level proves that at some point in time., websites that were less accessible were considered by the industry to be adequately accessible.

So, federal courts essentially make up or get to make up their own definition of what it means for a website to be accessible. And in the very few cases that have gotten far enough to think about this, the judges have generally said, I'll tell you what an accessible website is after I hear from experts on all sides and make up my own mind. And with more than 500 federal judges making up their own minds, I think it's safe to say we do not know what it means for a website to be legally accessible under Title III of the ADA.

How about alternative means of access? There are very early cases and regulatory materials suggesting that if a website offered as an alternative an 800 number that a customer could call that that might be adequate as an alternative way of providing access to the same services that the website provides.

I say the very early cases and regulations because they date from a time when websites were largely text only and did not have any most of the facilities that we see on modern websites. I would say the consensus is and this was certainly been the holding in a few cases that have dealt with it.

The consensus is that the only way to meet the ADA requirements for a website that has to be accessible is to make the website accessible. That is, you can't provide the same services in an alternative fashion, because mostly because websites are complex and feature laden enough that it's hard to say what would be an equally good alternative.

However, once again, we have some uncertainty. The 11th Circuit decision I referred to earlier actually held that a phone line might be adequate as an alternative to an accessible website, and it was willing to say that because it had a very limited view of what the website had to be able had to be accessible for which was refilling prescriptions. So once again, we get back to why does the website have to be accessible? Which theory of accessibility applies? And how does that interact with whether there's an alternative that may not be an accessible website? And finally, what kind of harm gives rise to standing. Now standing is a legal concept that comes from Article III of the U.S. Constitution, which limits federal courts to hearing cases and controversies, which means that federal courts only hear cases if somebody got hurt, and therefore you have to prove you were hurt. When a plaintiff has been hurt by encountering an inaccessible website is a point that is being argued in different ways in courts around the country right now, not with consistent results. Some courts have said that a plaintiff who merely sees that a website is not accessible but never intended to use the website for whatever its

purpose was, they didn't intend to get information they were going to use or they didn't intend to buy something.

Those courts would say that just because the website was not accessible doesn't mean that that person suffered a harm that would allow them to file a lawsuit. Other courts have taken a more expansive view and have said that essentially you are harmed if you are aware that a website is not accessible to a person with your disability and that gives you the right to sue. This makes a huge difference for website accessibility lawsuits under Title III, because as we're going to see, these lawsuits are mostly filed by plaintiffs who filed dozens or hundreds of lawsuits and who clearly never intended to buy goods or services from the websites they sued.

They were looking for a lawsuit, and they found it. If you say that those people don't have standing, then you've said that possibly a large majority of the website lawsuits being filed would have to be dismissed from federal court.

So this is a gigantically important decision on the matter on which we have very little case law. The 5th Circuit, in a recent ruling against the plaintiff Laufer has severely restricted standing. The Supreme Court, in a case called Transunion that wasn't an ADA case, has suggested that it might agree with the 5th Circuit.

But there are judges all over the country who don't agree. So standing is an important issue and it is still unresolved. What's the result of this? There ain't no easy way out as Tom Petty says in his song "Stand My Ground". If you decide to stand your ground in a ADA lawsuit and you decide that you will mount a full scale attack based on all the possible legal defenses, no standing website isn't covered, alternative means of access, you name it, it's very easy to find that you're standing on quicksand. And that that quicksand, I'm gonna start mixing metaphors here, turns into a money pit.

And at the bottom of that money pit is a lawyer, or maybe several lawyers who are making a lot of money. With that cheerful observation, let's talk about what to do if you get sued and you don't want to fall into the money pit.

The best response to a website accessibility lawsuit involves more than arguments about the law. I think I've made that point more than once here. The key thing you need to know for almost all website accessibility lawsuits is this.

It is another kind of serial litigation. Not cereal as in Captain Crunch, but serial as in one after the other. Since the early 2000s, plaintiffs and their lawyers have been filing multiple lawsuits based on looking around for ADA violations. Until 2015, those lawsuits mostly dealt with things like inadequate handicapped parking, ramps that were too steep, ATM machines that were not accessible to the blind that started after 2010. But website lawsuits are the same thing. They are generally filed by plaintiffs who filed multiple lawsuits.

The goal of the lawsuit is to generate a settlement quickly enough that the lawyer who files the lawsuit will make a substantial profit. In this case, a profit means they will make more money than they could make billing by the hour.

The price of settlement is almost always going to be less than or just about equal to the cost of the cheapest possible defense. The plaintiff wants to settle, so they will not price it so high that you would be encouraged to do anything else.

And finally, although in my opinion, the goal of these lawsuits is to make money for the lawyers, they do have self-respect and they will insist in any settlement agreement that remediation be part of it. So these lawsuits are filed with the idea that they will be settled, that they will be settled quickly, and that they will be settled on terms that require remediation. And once you know that, you know how best to respond to them and the decisions that that involves. The first thing that you need to know because of the way these cases are filed is that knowledge is power and there are four things that you have to know.

First, you have to know the venue. As I've said, the law varies from district to district, from circuit to circuit. You need to know what the law is in the particular place where your business was sued. If you are sued in Florida, you're better off than if you were sued in New York.

If you were sued in California, in some ways you're better off, in some ways you're worse off. You need to know the venue. Second, you need to know what the trends are. This is important because since we don't have authoritative decisions from the higher courts in most cases.

District judges, federal district judges will tend to look at what other district judges are doing. They don't have to do the same thing as other district judges. Every district judge gets to make up their own mind. But they will look at what the latest trends are.

And so you can't evaluate an ADA website case without knowing what has happened in the last few months in this area of litigation. Last year's news is last year's news. Third, you have to know the judge. This is extremely important.

Most federal judges have never decided an ADA website case. But some judges in the Southern District of New York, the Eastern District of New York, various places in California and Florida, may have decided multiple cases. And since for the most part, what these individual federal judges do is not constrained by some court of appeals that sits higher than them. If you want to know what's going to happen in your case, you have to know what your judge did. And if your judge has has no history in this kind of litigation, it's helpful to know what the judge down the hall did.

Because once again, even though federal judges can do their own thing, they don't have to do what any other federal district judge does. They do talk to each other and they talk most to the judges that are in the same building as them.

You have to know your judge and you have to know the judges around your judge to evaluate your case. And finally, you have to know your opposing lawyer. I think this is the point most lawyers would say know your venue, know your trends, know the judge.

Those are obvious. This is an area where you really have to know the opposing lawyer. Or at least what the opposing lawyer's doing. And that's because we have four kinds of opposing lawyers, and the type of lawyer makes a huge difference in how you respond to them.

These are my categories. I'm sure that the lawyers that I characterize as bottom feeders would resent it. But that's my opinion. There is a group of lawyers, they are bottom feeders. They send demand letters and they never file lawsuits.

These lawyers are sending sometimes nice looking demand letters. Usually demand letters that on careful examination reveal that they don't know much about the ADA or Title III But they send demand letters, they are hoping that someone will call them up and say "Oh my gosh, please don't sue me, I will send you money."

But since they've never filed a lawsuit, the risk that they will actually sue somebody is probably very low. And knowing that is going to affect whether you want to pay them anything or how much you want to pay them again, if anything.

So you need to know if you've gotten a demand letter from one of those kind of bottom feeder. Second, there are bottom feeders who file lawsuits. Now, one of the side effects of the fact that ADA website litigation has been in the news is that a certain number of lawyers around the country have decided they can leap into this area of litigation and maybe make a quick buck. And these lawyers will actually go to the trouble of paying a $400 filing fee and filing a lawsuit, probably a complaint that they copied from somewhere on the internet.

They change the names. Sometimes they fail to change all the names. But these lawyers are also in it for a quick hit. They probably won't just leave their lawsuit behind. But they're new to this game. They do not have the technical resources to litigate a case like this.

And so they can be settled with quite cheaply. There is also what, I can't call it a bottom feeder, there is a lawyer in California who files these lawsuits and will settle them for a filing fee because he actually just wants to make websites accessible.

Then you get mid-tier firms who don't really want to fight so much. These are firms mostly in California, they do file lawsuits. They file lots of lawsuits and they have proven that they can litigate these cases if they have to.

But they mostly don't seem anxious to do that. And their settlement demands tend to be a little lower than the last category of firms. These are established firms, usually with a long history of ADA litigation. They have experts on hand.

They are well acquainted with the law. They keep up with it the same way defense lawyers do. They are perfectly willing to take a case all the way to trial, probably all the way to the Supreme Court if they have to.

So they represent a major threat and it costs correspondingly more to settle with them. It still costs less than defending the case, for any likely successful defense. But it costs more than what the other three groups. So one of the first things you have to do if you're going to if you get sued in a Title III website lawsuit is you have to know who your opposing counsel are. It will make a difference of between whether the settlement is somewhere in the low five figures or zero. You also have to make a choice, and you have to choose wisely.

Let's make a deal is what I've suggested is the point of these lawsuits. And let's make a deal is almost always the best way out. There are businesses, however, who want to fight and in business litigation typically settling early is not what lawyers do.

We usually regard this as a kind of warfare where first you have to mount a strong defense, beat down your opponent and hopefully reduce their settlement demand. If that is the choice that a business wants to make, but they need to know is that the price of settlement almost never goes down as the lawsuit proceeds. It might go down with one of the bottom feeder categories. But for most of the law firms that are serious about this litigation, they aren't going to reduce their settlement demand just because you file a motion to dismiss an answer or take some discovery.

The costs will go up. And so your choice is really binary. You either settle at the outset or you fight to the death. And making a decision to fight for a little while and then settle the case is going to usually turn out to just be the most expensive way to get out of the lawsuit.

When you settle and since almost all the cases do settle, I'm pretty confident saying when, you have a choice to make confidential settlement agreement or a consent decree, there is not time today to discuss why a consent decree is a great deal in detail, except to say that a properly drafted consent decree may protect you from subsequent lawsuits. And since the statistics, since I know from reading various sources that some defendants in these cases have been sued up to seven times, having a consent decree that protects you from later lawsuits may be an important thing to have.

However, to work, a consent decree has to have provisions that are pretty onerous for the defendant, and many businesses find them too onerous, in which case a confidential settlement agreement is maybe the better choice and frankly, is usually the choice.

A typical settlement agreement and typical consent decree, for that matter, we're going to have these provisions, it's going to require money. The plaintiff in the plaintiffs lawyers will have to be paid. It's going to require remediation, generally

on terms that are reasonable given the business's financial abilities and frequently over an extended period of time. 18 to 24 months is not at all uncommon. Most businesses will be required to adopt the policy of accessibility, and since that is exactly as expensive as typing up a few sheets of words. It's pretty much free. There will be a release by the plaintiff of the defendant.

Businesses who are sued and perceived correctly that the law firm is probably behind this lawsuit will also ask for a release from the law firm. Unfortunately, the ethics rules in all 50 states preclude lawyers from giving such releases, so you're not going to get a release through the law firm, you're only going to get one from the plaintiff. There are typically limited enforcement provisions. That is, if the company does not remediate their website, there is some ability for the plaintiff to come back and enforce the settlement agreement. Usually, those enforcement provisions are very highly tilted toward the defendant, and they discourage the plaintiff from ever trying to enforce the settlement agreement.

Plaintiff's lawyers frequently ask for provisions that include later inspections, reporting on accessibility, on remediation efforts and so forth. My experience has been, although they are often ask for later or never insisted upon. If the plaintiffs and the plaintiffs lawyers are paid, they will give up on those items.

If you must fight, as I said, be prepared to spend what it takes to win, it's better to settle at the beginning than to spend large amounts and settle later. And I would say you need to adopt some very specific items in the method of defense.

I'm not going to go over them beyond showing you the slide because otherwise we're going to run out of time. Now, managing website litigation risk is the wrong way to think about accessibility. Here's the right way. Make your website accessible for your customers to increase revenue, to get ahead of the curve on the law.

Do it for your customers. They're getting older. People who are older are blinder and deafer and they are disabled and they need accessible websites. If your website's not accessible, you are rapidly losing customers. Do it for your revenues.

The statistics I got here from Level Access, citing a study called Click Away Pound. The huge majority of disabled users will not hang around a website that poses an accessibility barrier. They will go to a competitor who has an accessible website.

So if you want to keep your customers and your revenues, you need to have an accessible website. This is also, this year, possibly or next, is your last chance to get ahead of the curve on the law. Title III law is very uncertain now, but it is very likely that the Biden Administration Justice Department is working on regulations for Title III three in websites, and those regulations will make it clear that even online only businesses must be accessible, and they will probably define accessibility in terms of WCAG 2.1 success level AA. So you might as well start now because those regulations are coming.

And frankly, there's one reason why they might not come and that is there is bipartisan legislation pending that would add Title VII to the ADA. So instead of Title III, Title VII would cover websites and mobile apps. It would also require regulations, and it would take away all the uncertainty about whether websites are covered or about what accessibility means. I don't have a crystal ball about this, but having seen the fact that the federal government in other areas has adopted WCAG as regulatory standards and seeing that that's what DOJ tried to do last time around, it seems pretty clear that what we're going to end up in a few years at the most is it will be very clear that all websites must be accessible, and that WCAG 2.1 AA is the standard unless that is replaced by WCAG 3.0 whenever it is actually published. So this is your last chance to get ahead of the law.

Now why litigation risk is not the best reason. There are 200 million, I'm sorry, 20 million company websites in the U.S., according to the Small Business Administration, there are 4000 website lawsuits a year. The odds of being sued are .02%.

On the other hand, the odds of being sued for employment discrimination are 11.7% and there were 100,000 personal injury lawsuits filed against businesses last year. Website - the the risk of website litigation is extremely annoying because of the uncertainties.

It's annoying because of the kind of plaintiffs, but it isn't the reason to make your website accessible. If you're just going to engage in a dollars and cents litigation risk calculation, you'll be disappointed about this. Also, accessibility may not prevent litigation.

I'm sorry to say that the plaintiffs who filed these lawsuits typically use software to determine whether websites are accessible. That software is not reliable. It reports false positives. And it's very - and it's almost impossible to maintain perfect accessibility.

Remember, these are serial lawsuits whose primary goal is to have enough heft to justify a settlement. So having an almost perfect website will not protect you from lawsuits. But what will protect you from a lawsuit, frankly, is either having a perfect website.

or taking a few other steps that might help. Once again for time reasons, I'm not going to discuss this in detail. I've put a URL for a blog in which I discuss arbitration agreements and how they might help you.

There is a technique that I call looking accessible as well as being accessible. This has to do with tuning your website so that machine or software programs looking for accessibility say that it's accessible. And that may mean doing things you shouldn't have to do.

But in any case, the real reason to make your website accessiblel is for your customers and for increasing revenue and getting ahead of the curve of the law.

And if it matters to you in the holiday season, because it's actually the right thing to do.

So these are the reasons to make a website accessible. And the key points, which I just want to review, but I'd say the four takeaways today that I hope you've gotten - website accessibility litigation is another form of ASA serial litigation.

The goal is a quick settlement and your response should be based on a quick settlement that it's going to include remediation. Effective defense of these cases is made very difficult by the uncertain condition of the law. And because of this, strategic decisions require more than just the knowledge of the law.

They require specific knowledge of the venue and even the judge in which before whom the case is pending. And finally, the risk of litigation is actually pretty low and is not the best reason to do this. I'm not suggesting you should walk into a situation where you're inviting litigation, that obviously isn't very smart.

But the most important reason to have an accessible website is because it's the right thing to do if you want to know more - here's my contact information I'd be happy to visit with anybody. Thank you very much.

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