

California Court of Appeal Holds Online-Only Business Websites Are Not “Public Accommodations”

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On August 1, 2022, the California Court of Appeal joined longstanding Ninth Circuit precedent in determining that online-only businesses are not “public accommodations” covered under Title III of the Americans with Disabilities Act (“ADA”) in [Martinez v. Cot’n Wash, Inc.](#), 2022 WL 3025828 (Cal. Ct. App. 2022). This may signal a change of tides of sorts for employers and other companies who have found themselves prey to this particular brand of ADA litigation.

Title III of the ADA prohibits “public accommodations” from discriminating on the basis of disability and requires that businesses make their facilities accessible. Historically, this meant designing or altering physical facilities to be accessible (e.g., by adding ramps, enlarging door frames, etc.). However, in recent years, companies also have faced a slew of ADA access lawsuits based on allegations that websites are not accessible to individuals with visual impairments. In California, home to more ADA accessibility suits than any other state, many of these claims are filed under both the ADA and California’s Unruh Civil Rights Act (the “Unruh Act”).

Martinez involved an ADA and Unruh Act public accommodation claim by a blind plaintiff, who claimed that he was unable to use screen reading software to navigate a website for an online-only cleaning-supply company, Dropps.com.

Looking to the statutory text of the ADA and its implementing regulations, the court noted the definition of “public accommodation” always includes terms like “places,” “establishments,” or “facilit[ies],” words whose dictionary definitions involve a physical location. The court also considered the history of the ADA and noted that both Congress and the Department of Justice (the agency charged with Title III enforcement) have been divided—or plainly inactive—for well over a decade despite “known confusion” on the issue. Accordingly, the court declined to “adopt an interpretation of the statute that is not dictated by its language,” and held that Dropps.com was not a “place of public accommodation” under the ADA because it had no physical presence.

While *Martinez's* holding was limited to online-only businesses, it has potentially broad implications for companies that do not operate physical facilities that are open to the public. These businesses can breathe a sigh of relief, at least for now.

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