

2021 FACA Annual CLE

**Recent Developments
in Case Law on
Website Accessibility**

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OUR NAME IS EASY TO REMEMBER. OUR WORK IS HARD TO FORGET.

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Relevant Sources of Law

- Americans with Disabilities Act (ADA)
- Rehabilitation Act of 1973
 - Section 508
 - 29 U.S.C. s. 794(d)
 - 36 C.F.R. part 1194
- Chapter 282, Florida Statutes
- Local legislation/policies

Website Accessibility - ADA

- Gil v. Winn-Dixie – Southern District of Florida
 - Lawsuit brought against private company, Winn-Dixie, challenging its website under the ADA
 - District Court entered judgment in favor of Plaintiff in 2017
 - Relief granted by District Court included an injunction requiring Winn-Dixie to make its website compliant with the ADA
 - Prompted many lawsuits
 - District Court's judgment was appealed to the Eleventh Circuit

ADA

- Gil v. Winn-Dixie – Relevant Facts
 - Nature of website
 - Link rewards card to coupons
 - Existing pharmacy customers could request refills
 - No sales
 - Visually impaired Plaintiff
 - Website incompatible with screen reader software

ADA

- Gil v. Winn-Dixie
 - Key issues before District Court
 - Place of public accommodation?
 - Nexus between website and physical stores?
 - Eleventh Circuit – prior case law
 - Split among other district courts and circuit courts

ADA

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ADA

- *Gil v. Winn-Dixie Stores, Inc.*, Case No. 17-13467 (11th Cir. Apr. 7, 2021)
 - Eleventh Circuit panel - reversed District Court's decision holding private website violated Title III of the ADA, 42 U.S.C. §§ 12181-12189

ADA

- Gil v. Winn-Dixie
 - District Court judgment – summer 2017
 - Injunctive relief
 - Not stayed pending appeal
 - District Court judgment appealed to Eleventh Circuit
 - Response of legal community

ADA

- Gil v. Winn-Dixie
 - Procedural posture
 - Judgment entered following bench trial
 - Relevance
 - Key aspects of District Court's analysis
 - Key authority relied upon by District Court

ADA

- Gil v. Winn-Dixie
 - Eleventh Circuit appeal
 - Filed in 2017
 - Many lawsuits filed based on District Court's decision and decisions cited District Court's decision of the next few years
 - Three-judge panel finally issued opinion in April 2021
 - 2-1 decision of panel – reversed District Court
 - 1 judge on panel directed that mandate be withheld

ADA

- Gil v. Winn-Dixie
 - Eleventh Circuit appeal
 - Majority opinion
 - Website not place of public accommodation – only physical places
 - Plain language of the statute analysis
 - Website at issue not subject to ADA accessibility requirements
 - Dissenting opinion

ADA

- Gil v. Winn-Dixie
 - Eleventh Circuit appeal – current status
 - Following issuance of panel's decision, mandate withheld
 - Petition for rehearing en banc filed
 - Amicus motions

ADA

- Gil v. Winn-Dixie
 - Implications for government entities
 - Response of legal community
 - Response of other courts in and outside of Florida
 - Legal commentary

Other Recent Developments

- Considerations for local governments
- Additional issues
- Responses of governments

Resources

- For updates/documents in Gil v. Winn-Dixie – PACER search for Case No. 17-13467
- <https://www.flcities.com/ada-website-compliance>
- <https://www.section508.gov/>