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SDNY CHIEF JUDGE HOLDS THAT STAND-ALONE WEBSITE IS NOT A PLACE OF PUBLIC ACCOMMODATION

Oct 23, 2024

In a recent decision, Chief Judge Laura Swain of the U.S. District Court for the Southern District of New York ruled that a "stand-alone website is not a place of public accommodation under Title III of the ADA." This decision arms retailers and small businesses, who only have an online presence, with a defense against the influx of ADA accommodation cases in the Southern District of New York.

Judge Swain's decision in *Mejia v. High Brew Coffee*, No. 1:22-cv-03667-LTS, 2024 WL 4350912 (S.D.N.Y. Sept. 30, 2024), aligns with the majority of circuit courts (*i.e.* the Third, Sixth, Ninth, and Eleventh), which have found that a website is only a place of public accommodation if it has a connection to a physical location. Notably, decisions from other district courts within the Second Circuit have followed the minority view of the First and Seventh Circuits that a physical location is not required for the ADA to apply to a private entity. Businesses without a physical location will likely take solace in Judge Swain's decision in *Mejia* as it provides them with added support to seek early dismissal of ADA claims.

BACKGROUND

Plaintiff Mejia, a legally blind individual, asserted that defendant High Brew Coffee, which sold coffee through its website, violated Title III of the Americans with Disability Act of 1990 ("ADA") and the New York City Human Rights Law ("NYCHRL") because its website's coding prevented plaintiff from using his screen-reader software to purchase coffee on the website.

Defendant moved to dismiss the complaint for failure to state a claim. In granting dismissal of plaintiff's ADA claim, Judge Swain acknowledged that the ADA does not define the term "place of public accommodation," but does provide a non-exclusive list of different types of enterprises that are considered public accommodations, such as hotels, restaurants, bakeries, grocery stores and shopping centers. While noting that the Second Circuit has not squarely addressed the issue of whether a website without a physical location constitutes a place of public accommodation, Judge Swain declined to follow in the footsteps of other district courts in the Second Circuit that have

interpreted *Pallozzi v. Allstate Life Ins. Co.*, 198 F.3d 28 (2d Cir. 1999), as defining places of public accommodation to include internet-only businesses.

Applying the doctrine of ejusdem generis ("of the same kind or class"), Judge Swain concluded "that the statute was only intended to encompass 'service establishments' tied to a physical location, and thus a standalone website cannot be considered a 'service establishment' within the meaning of 1218(7) because it lacks the necessary physical nexus." In reaching this conclusion, Judge Swain also relied on the fact that, when the statute was written, Congress did not address businesses without physical locations, such as television shopping channels and mail order merchandise services, even though such businesses were in existence at that time; therefore, she could not infer that Congress intended to include websites, a new business model, within the definition of place of public accommodation. Judge Swain declined to exercise supplemental jurisdiction over plaintiff's claims under the NYCHRL.

If you are a business in need of additional information or assistance with ADA claims, please contact the authors listed.

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