

DOJ PUTS WEBSITE ACCESSIBILITY REGULATIONS ON INACTIVE LIST

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Retailers and other businesses that have been waiting for the Department of Justice (“DOJ”) to promulgate regulations concerning website accessibility under Title III of the Americans with Disabilities Act (the “ADA”) will now have to wait a lot longer. Eight years after the DOJ began the rulemaking process on this issue, it has now listed the rulemaking as “inactive.”

Federal agencies typically provide public notice of the regulations that are under development twice a year in the [Unified Regulatory Agenda](#). The first Agenda was issued by the Trump Administration on July 20, 2017, and contains noteworthy changes from the last Agenda issued by the Obama Administration.

For the first time, the Agenda breaks down all agency regulatory actions into three categories: active, long-term, or inactive. While the Agenda does not define these terms, only the active and long-term matters receive a description and projected deadlines. The inactive matters appear in a document called “[2017 Inactive Actions](#).”

Recently, courts have filled the void left by the absence of government regulations with a patchwork of conflicting decisions. As we have [previously reported](#), the Northern District of California granted a motion to dismiss a website accessibility case under the primary jurisdiction doctrine. In *Robles v. Dominos Pizza LLC*, the court found that holding Dominos liable when the DOJ still has not promulgated website accessibility regulations would violate Dominos’ due process rights.

As we also [reported](#), however, the Southern District of Florida ruled, following a bench trial in *Gil v. Winn-Dixie Stores, Inc.*, that Winn-Dixie’s website violates the ADA even though no purchases can be made through the website. In so holding, the court applied the Website Content Accessibility Guidelines (“WCAG”) 2.0, a standard developed by a private industry group.

Most recently, we [reported](#) that in *Gorecki v. Hobby Lobby Stores, Inc.*, the Central District of California denied Hobby Lobby’s motion to dismiss. The Court relied on DOJ [regulations](#) requiring public accommodations to use auxiliary aids and services to “communicate effectively” with disabled customers. Bryan Cave has experience in defending against website accessibility claims, and has provided advice and webinars on [steps businesses can take to improve website](#)

[accessibility](#). For more information or to schedule a similar webinar or presentation, please contact any of the Bryan Cave attorneys listed or any member of the [Retail](#) team.

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