

Navigating Website Accessibility: Legal Pitfalls And Proactive Compliance Strategies



The digital age has transformed how businesses interact with customers, but with this shift comes heightened legal exposure under the Americans with Disabilities Act (ADA) and Unruh Civil Rights Act. Website accessibility lawsuits now account for a substantial percentage of all ADA Title III claims in recent years—a trend fueled by plaintiffs' attorneys targeting businesses with inaccessible online platforms. As courts increasingly recognize websites as “places of public accommodation,” compliance is no longer optional—it's a necessity.

Drawing from our experience defending clients in high-stakes ADA litigation, including a landmark [victory for Marriott](#) in which the Court required the plaintiff to pay Marriott for filing frivolous litigation, this article outlines critical compliance strategies to mitigate risk and foster inclusivity.

The Legal Landscape: Why Websites Are Under Fire

Under Title III of the ADA, businesses must ensure their digital platforms are accessible to individuals with disabilities, including those using screen readers, voice navigation, or alternative input devices. Recent Department of Justice (DOJ) [guidance in 2022](#) clarified that **Web Content Accessibility Guidelines (WCAG) 2.1 Level AA** are the de facto standard for compliance. Website lawsuits are also easy for plaintiffs to find and easy to file.

Key risk areas include:

- **E-commerce platforms:** Checkout processes that lack keyboard navigation or alt-text for images.
- **Third-party widgets:** Embedded tools (e.g., chatbots, calendars) that fail accessibility tests.
- **Multimedia content:** Videos without closed captions or audio descriptions.

Common Compliance Pitfalls (and How to Avoid Them)

Businesses often unknowingly violate the ADA due to outdated practices:

- **Overreliance on “Accessibility Overlays”:** Plugins are frequently marketed as quick fixes, but they are often deemed insufficient. For example, in *Robles v.*

Domino's Pizza (2023), a pizza chain faced liability despite using an overlay, as it failed to address core structural issues. Recently, the FTC [ordered](#) one such plugin remediation company to pay \$1 million for deceptively advertising that its product could make websites ADA compliant.

- **Ignoring Mobile Optimization:** With 60% of web traffic coming from mobile devices, ensuring responsive design for screen readers on smaller screens is critical.

Incomplete Testing: Automated tools (e.g., WAVE, AXE) catch only a fraction of ADA website violations. Human testing by users is still necessary to ensure full compliance.

Proactive Steps for Sustainable Compliance

Step 1: Conduct a Comprehensive Audit

Partner with certified accessibility experts to evaluate your site against WCAG 2.1 AA. Prioritize:

- **Navigation:** Keyboard operability and focus indicators.
- **Text Alternatives:** Alt-text for images, ARIA labels for dynamic content.
- **Forms:** Error identification and correction support.

Step 2: Implement a Maintenance Plan

Accessibility is not a one-time project. Regular audits, staff training, and version control for third-party tools are essential.

Step 3: Adopt a Robust Accessibility Policy

Publicly post your commitment to accessibility, including contact details for reporting issues—a practice that courts view favorably during litigation.

The Cost of Non-Compliance

Beyond legal fees (averaging in the thousands per case), businesses face:

- **Reputational Damage:** Negative media coverage and social backlash.
- **Serial Litigation:** Different plaintiffs often file multiple claims across jurisdictions against the same website.
- **DOJ Investigations:** As seen in recent cases against educational platforms, federal scrutiny can lead to costly consent decrees.

Emerging Trends to Watch

- **AI-Driven Compliance Tools:** While promising, AI cannot yet replace human judgment.
- **Global Standards:** The EU's EN 301 549 and Canada's ACA are pushing businesses toward universal design principles.
- **DOJ Rulemaking:** It is possible we will finally see formal ADA website regulations by late 2025, codifying WCAG 2.1 AA into law.

Website accessibility is not just a legal obligation—it's a competitive advantage. By embracing inclusivity, businesses can tap into a market of millions of Americans with disabilities while shielding themselves from costly litigation. At JMBM's ADA Defense Group, we combine technical expertise with legal acumen to help clients build defensible, future-proof digital platforms.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Authors: [Martin H. Orlick](#), [Stuart Tubis](#), [Christopher Whang](#)

Jeffer Mangels Butler & Mitchell LLP