



CFA provides information about our industry's vulnerable business issues. The current issue's importance sends a clear "Protect Yourself" message and is part of CFA's continuing effort to assist our members.

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'PROTECT YOURSELF' Alert:



So, Your Website Has Been Hit With a Disability Access Claim. Now What?

Cases typically allege that the website is not accessible to the visually impaired.....A quick and effective response increases the likelihood that the case can be resolved before it metastasizes into expensive litigation.

Three key points to consider:

- 1. First, stay calm, size up the problem, and call experienced counsel.** A small number of law firms file a disproportionate share of these cases. Experienced lawyers will know the players, the issues, and the range of acceptable terms from the start. ***When the lawyers on both sides are experienced, negotiations are more efficient.***
- 2. Responding to the complaint or demand.** The first letter responding to a complaint or demand letter is important because it sets the tone for whether your attorney understands this area of law and can challenge the claims. Many claims are filed under both the federal Americans with Disabilities Act and other state and local laws. These state laws invariably have nuances that can be used to challenge a claim. ***Raising these challenges is an important way to set the tone and the boundaries of settlement discussions.***
- 3. What to expect when you're expecting to settle.** Most web-access cases settle early. Generally, web access settlements have three components. *First*, a release and strong confidentiality provision. *Second*, a website remediation requirement. *Third*, (surprise, surprise) a monetary payment to the plaintiff. Some defendants can credibly claim COVID-induced hardship and reduce their settlements accordingly.

Melding these factors to come up with a settlement is as much art as science . That is why it is best to bring in experienced counsel early. With experienced counsel and the right strategic approach, these matters can be settled early and for a fraction of the cost of litigation.

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