U.S. Law and Web Accessibility

## Slide 4 (Number of ADA Lawsuits)

* Jason Taylor’s blog (<https://blog.usablenet.com/author/jason-taylor>)

## Slide 8 (ADA Title II Cases)

* ADA Text (<https://www.ada.gov/pubs/adastatute08.htm>)
* ADA Title II Regulation (<https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm>)
* Section 504 (<https://www.law.cornell.edu/uscode/text/29/794>)
* *Martin v. Metro Atlanta Rapid Transit Auth.,* 225 F. Supp. 2d 1362 (N.D. Ga. 2002)

## Slide 10 (ADA Title III)

* ADA Text (<https://www.ada.gov/pubs/adastatute08.htm>)
* ADA Title III Regulation (<https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm>)

## Slide 14 (Nexus Approach)

* Gil v. Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340 (S.D. Fla. 2017)(ruling against Winn-Dixie using traditional nexus test), *rev’d by,* 993 F.3d 1266 (11th Cir. 2021)(narrowing nexus standard), *vacated by* 21 F.4th 775 (11th Cir. 2021)(vacating earlier opinion on mootness and restoring traditional nexus-like approach).
* *Ariza v. S. Moon Sales, Inc*., 2022 U.S. Dist. LEXIS 144467 (S.D. Fla. 2022)(magistrate judge following traditional nexus test post-Winn-Dixie)
* *Ariza v. Broward Design Center, Inc.*, 2022 U.S. Dist. LEXIS 192421 (S.D. Fla. 2022)(judge considering weight of Winn-Dixie yet opting to deny dismissing plaintiff’s complaint where it includes conclusory assertions connecting website to a physical establishment).
* *Ariza v. Coffee Beanery, Ltd*., 2022 U.S. Dist. LEXIS 217917 (S.D. Fla. 2022)(franchisors can be liable for websites used by franchisees).

## Slide 15 (Splits within Second and Third Circuits)

* *Chalas v. Barlean's Organic Oils, LLC*, 2022 U.S. Dist. LEXIS 211816 (S.D.N.Y. 2022)(concluding that Second Circuit “would come  down on the side of the First and Seventh Circuits, and conclude that a website can be a ‘place of public accommodation’ within the meaning of Title III of the ADA).
* *Martinez v. Gutsy LLC*, 2022 U.S. Dist. LEXIS 214830 (E.D.N.Y. 2022)(cracks appearing within EDNY as one court abandons nexus standard).
* *Jaquez v. Dermpoint, Inc*., 2021 U.S. Dist. LEXIS 96067 (S.D.N.Y. 2021)(allowing suit against purely online company)
* *Winegard v. Newsday LLC,* 556 F. Supp. 3d 173 (E.D.N.Y. 2021)(severely restricting web accessibility cases)
* *Douglass v. Blendjet*, 2022 U.S. Dist. LEXIS 171718 (W.D. Pa. 2022)(court noting split in 3rd Circuit)
* *See also, Tavarez v. Moo Organic Chocolates, LLC,* 2022 U.S. Dist. LEXIS 154249 (S.D.N.Y. 2022)and *Martinez v. Mylife.com, Inc*., 2021 U.S. Dist. LEXIS 210585 (E.D.N.Y. 2021) (continuing split between EDNY and SDNY)

## Slide 16 (Unruh and Disabled Persons Act)

* Unruh Civil Rights Act, Cal. Civ. Code § 51, *available at* <https://leginfo.legislature.ca.gov/faces/codes.xhtml>
* Disabled Persons Act, Cal. Civ. Code §§ 54-55.32, *available at* <https://leginfo.legislature.ca.gov/faces/codes.xhtml>
* *Martinez v. Cot’n Wash, Inc*., 2022 Cal. App. LEXIS 673 (Cal. Ct. App. 2022)(Unruh claim against purely online companies requires proving intentional discrimination)

## Slide 18 (Telephone Alternative)

* *Robles v. Domino’s Pizza LLC*, 2017 U.S. Dist. LEXIS 53133 (C.D. Cal. 2017), rev’d on other grounds, 2019 U.S. App. LEXIS 1292 (9th Cir. 2019)
* *Access Now v. Blue Apron,* 2017 U.S. Dist. LEXIS 185112 (D.N.H. 2017)
* *Gorecki v. Dave & Buster’s, Inc.,* 2017 U.S. Dist. LEXIS 187208 (C.D. Cal. 2017)
* *Thurston v. Midvale Corp.,* (Cal. Super Ct. 2018) aff’d by 39 Cal. App. 5th 634, 650-51 (Cal. Ct. App. 2019).
* *Robles v. Domino’s Pizza LLC*, 2021 U.S. Dist. LEXIS 124356 at \*18 (C.D. Cal 2021)(expecting disabled customer to wait 45 minutes to order a pizza is not effective communication).

## Slide 19 (No Possession, Ownership, or Control)

* *Sierra v. City of Hallandale Beach*, 904 F.3d 1343 (11th Cir. 2018)

## Slide 20 (Standing to Sue—Part 1)

* *Carroll v. Roanoke Valley Community Credit Union,* 2018 U.S. Dist. LEXIS 98284 (W.D. Va. 2018)
* *Mitchell v. Dover-Phila Fed. Credit Union,* 2018 U.S. Dist. LEXIS 105798 (N.D. Ohio 2018).
* *Calcano v. Swarovski*, 36 F.4th 68, 75 (2d Cir. 2022).
* *Loadholt v. Dungarees, Inc*, 2023 U.S. Dist. LEXIS 26006 (S.D.N.Y. 2023).
* *Zinnamon v. Profound Color, LLC*, 2023 U.S. Dist. LEXIS 186736 (S.D.N.Y. 2023)(example of court requiring plaintiff to demonstrate an “intent to return”).

## Slide 21 (Standing to Sue—Part 2)

* *Kennedy v. Nisha, Inc.*, 2020 U.S. Dist. LEXIS 170829 (M.D. Fla. 2020)
* *Rutherford v. Evans Hotels,* LLC 2020 U.S. Dist. LEXIS 161565 (S.D. Cal. 2020)
* *Murphy v. Bob Cochran Motors, Inc.,* 2020 U.S. Dist. LEXIS 139887 (W.D. Pa. 2020)
* *Parks v. Richard*, 2020 U.S. Dist. LEXIS 86790 (M.D. Fla. 2020)
* *Rizzi v. Hilton Domestic Operating Co*., 2020 Dist. LEXIS 144884 (E.D.N.Y. 2020)

## Slide 22 (Mootness and Res Judicata)

* *Haynes v. Hooters of America LLC*, 893 F.3d 781 (11th Cir. 2018)
* *Markett v. Five Guys Enterprises, LLC*, 2017 U.S. Dist. LEXIS 115212 (S.D.N.Y. 2017)
* *Fernandez v. Dolce & Gabbana*, 2020 U.S. Dist. LEXIS 28182 (S.D. Fla. Feb. 14, 2020)
* *Langer v. Ralphs Grocery Co*., 2022 U.S. Dist. LEXIS 134685 (S.D. Cal. 2022)(example where mootness argument works)
* *Tavarez v. Extract Labs*, 2023 U.S. Dist. LEXIS 55615 (S.D.N.Y. 2023)(another rare case where mootness worked).

## Slide 23 (Personal Jurisdiction)

* *Access Now v. Sportwear, Inc.,* 298 F. Supp. 3d 296(D. Mass. 2018)
* *Thurston v Fairfield Collectibles of Georgia LLC*, 53 Cal. App. 5th 1231 (Ct. App. Cal. 2020)
* *Sullivan v. Walker Construction*, 2019 U.S. Dist. LEXIS 77113 (S.D.N.Y. 2019)
* *Licea v. Bump Boxes,* 2022 Cal. App. Unpub. LEXIS 4784 (Cal. Ct. App. 2022)(personal jurisdiction under Unruh exists over Illinois company), *but see,* *Bump Boxes, Inc. v. Licea*, 2020 U.S. Dist. LEXIS 57843 (C.D. Ill. 2020)(federal court in Illinois holding differently)