

# RISK Alert

ACTIONABLE INSIGHTS FOR BOND POLICYHOLDERS.



Alert Type

Awareness

Watch

Warning

## Law Firms Allege ADA Non-Compliance Related to Website Accessibility

Law firms representing private litigants have become increasingly aggressive in recent weeks in pursuing credit unions regarding website and mobile app accessibility suggesting they are not equally accessible to people with disabilities. Credit unions are encouraged to take the necessary steps to ensure their websites, including online banking sites and mobile applications, are accessible to individuals with disabilities.

Risks involving compliance and regulatory change that may have ambiguous requirements and stipulations are challenging - website accessibility and the Americans with Disabilities Act (ADA) is one challenging risk trending now.

### Details

Recently consumer rights attorneys and the Department of Justice began filing or threatening to file legal action based on allegedly inaccessible websites and mobile applications due to numerous digital barriers. The state of California is an attractive state for many of these cases, In fact, a majority of the credit union cases have been brought to credit unions in California; however, others have also been introduced in Pennsylvania and Florida.

Although there are not yet specific regulations addressing website accessibility, these consumer rights attorneys are relying on the general language of the Americans with Disabilities Act (ADA), in addition to a violation of the California Civil Rights Unruh Act, to make demands and bring actions claiming that credit union websites are not equally accessible to people with disabilities.

The legal actions, typically beginning with a letter, allege that websites and/or mobile applications are not accessible to individuals with disabilities in violation of Title III of the ADA, which covers public accommodations. It is contended that websites contain barriers that limit the ability of individuals with disabilities to use assistive technology, such as screen reader software, to access the organization's website. Screen readers, commonly used by the blind or visually impaired, convert text displayed on web pages to audible synthesized speech or sends that information to a digital braille display. However, for screen readers to work with a website or application, the web developer must program the site for compatibility.

**Date:** July 18, 2017

**Risk Category:** Compliance; ADA; Web/Internet; E-commerce; Litigation

**States:** All

**Share with:**

- Risk Manager
- Marketing
- Web / Mobile App Developer
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**To share risk insights or gain additional assistance:**

- [Report a RISK Alert](#)
- [Ask a Risk Consultant](#)
- Contact a CUNA Mutual Group Risk & Compliance Consultant
  - **800.637.2676, option 4**
  - [riskconsultant@cunamutual.com](mailto:riskconsultant@cunamutual.com)

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If the demand is ignored or disputed, a lawsuit is then filed in State Court or even possibly in Federal Court potentially leaving your credit union to damages and fees. For example, if a credit union is found in violation under the Unruh Act in California, the individual could be entitled to \$4,000 in damages for each instance, and an injunction requiring remediation of the website and attorneys' fees.

The Department of Justice (DOJ) is in the process of revising ADA regulation to establish specific guidelines for what makes an accessible website. In both 2010 and 2015, the DOJ proposed standards for website accessibility citing the [Web Content Accessibility Guidelines \(WCAG\) 2.0](#) developed by the Web Accessibility Initiative (WAI) of the [World Wide Web Consortium \(W3C\)](#). All signs continue to point to WCAG 2.0 as the standard to follow.

## Risk Mitigation

Clearly, waiting until precise accessibility regulations are in place in 2018 could have costly consequences. Credit unions should start working towards making their websites, including online and mobile banking websites, accessible to people with disabilities. Credit unions should also ensure mobile applications are compliant.

- Conduct a thorough risk assessment on your websites and mobile applications and ensure content / services is accessible and compatible with assistive technology.
- If necessary, work with your IT, risk / compliance team, and vendors to remedy your website and mobile applications
- Use the [WCAG 2.0](#) to identify weaknesses that should be corrected to make the website accessible to individuals with disabilities.

[W3C](#) also provides a list of vendors offering website accessibility evaluation tools to help organizations determine if their website meets accessibility guidelines. Credit unions should use an evaluation tool to determine what adjustments, if any, need to be made to their websites.

If you receive a demand letter; policyholders should immediately report it to CUNA Mutual Group's Third Party Litigation to review coverage and develop appropriate next steps. Be assured, CUNA Mutual Group is monitoring case progress globally and ensures that strategy and litigation practices are consistent and streamlined for policyholders

## Risk Prevention Resources

Access CUNA Mutual Group's [Protection Resource Center](#) at [cunamutual.com](#) for exclusive risk and compliance resources to assist with your loss control needs. The Protection Resource Center requires a User ID and password.

- RISK Alert: [New Lawsuits Allege Website Inaccessibility](#)
- Video: [Website Accessibility & ADA](#)



Access the Protection Resource Center for exclusive resources:

- [Loss Prevention Library](#) for white papers & checklists
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Check out our [areas of practice](#) to help you manage your most pressing risks.

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## Interested in learning more about ADA & Website Accessibility?

Contact a CUNA Mutual Group's Risk & Compliance Solutions at **800.637.2676, option 4** or by email at [riskconsultant@cunamutual.com](mailto:riskconsultant@cunamutual.com) for additional risk insights.