

ACCESSIBILITY.com

Trends in Digital Accessibility Lawsuits

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Overview of Website Accessibility Lawsuits

- Funnel Technique Process
 - How Websites are Targeted
 - Notice/Demand Letters
 - Lawsuits Filed
- Research Methodology for curating the [Accessibility.com Legal Database](#)
- 2022 Data Review
 - Cases
 - Plaintiffs
 - Industries
 - Law Firms
 - States
- Where are Website Accessibility Lawsuits Headed in 2023?

Process: Website Targeting

Target based on Industry (D&B/ Hoovers – Company Search Engine) or Technology used

built with Tools ▾ Features ▾ Plans Customers Resources ▾ Website, Tech, Keyword **Lookup**

Home / Trends / Analytics and Tracking / accessiBe Usage Statistics / accessiBe Website List

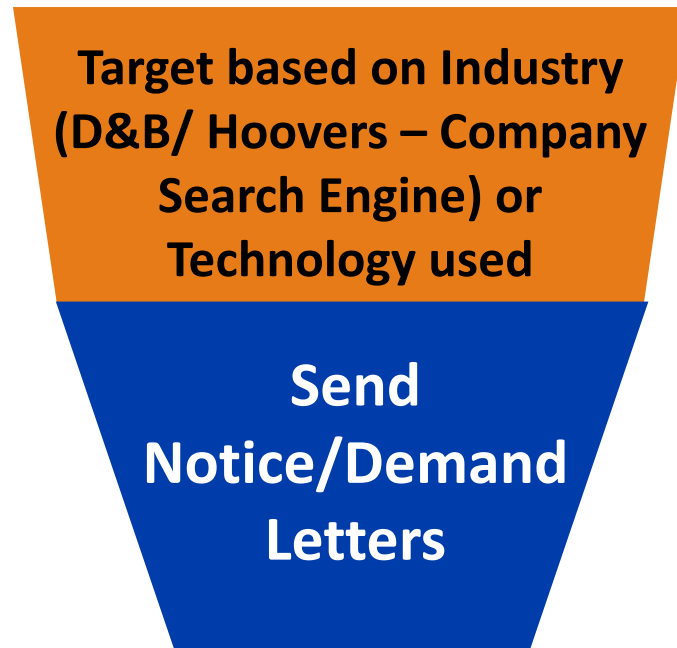
Websites using accessiBe

Download a list of all 25,193 Current accessiBe Customers

[Download Full Lead List](#)
Create a **Free Account** to see more results

Website	Location	Sales Revenue	Tech Spend	Social	Employees	Traffic
arlo.com	United States	\$851k+	\$10000+	10,000+	1,000+	High
avon.com	Argentina	\$2.9m+	\$10000+	500+	10,000+	Very High
allsaints.com	United States	\$691k+	\$5000+	20,000+	1,000+	Medium
mythirtyone.com	United States	\$389k+	\$2000+	10,000+	1,000+	Medium
missouriquiltco.com	United States	\$421k+	\$5000+	150,000+	100+	Medium
evike.com	United States	\$59k+	\$500+	200,000+		Medium
magpul.com	United States	\$326k+	\$2000+	50,000+		Medium
achieve3000.com	United States		\$10000+	1,000+	100+	High
metroliner.com	United States		\$500+	1,000+		-
albeebaby.com	United States		\$2000+	2,000+		High
eset.com	United States		\$10000+		1,000+	Very High
allegromedical.com	United States	\$664k+	\$5000+	500+	10+	High
eataly.com	United States	\$260k+	\$2000+		10,000+	Medium
mgemi.com	United States	\$561k+	\$5000+	50,000+	10+	Medium
marketing360.com	United States		\$2000+	1,000+		Medium
ensure.com	United States		\$2000+			Medium
mobilehomepartsstore.com	United States	\$127k+	\$1000+			-
abbott.com	United States		\$10000+	50,000+	100,000+	High
annieselke.com	United States	\$759k+	\$5000+	1,000+	10+	Medium
airstream.com	United States		\$2000+	5,000+	1,000+	Medium
support.august.com	United States	\$605k+	\$2000+	5,000+	10+	High

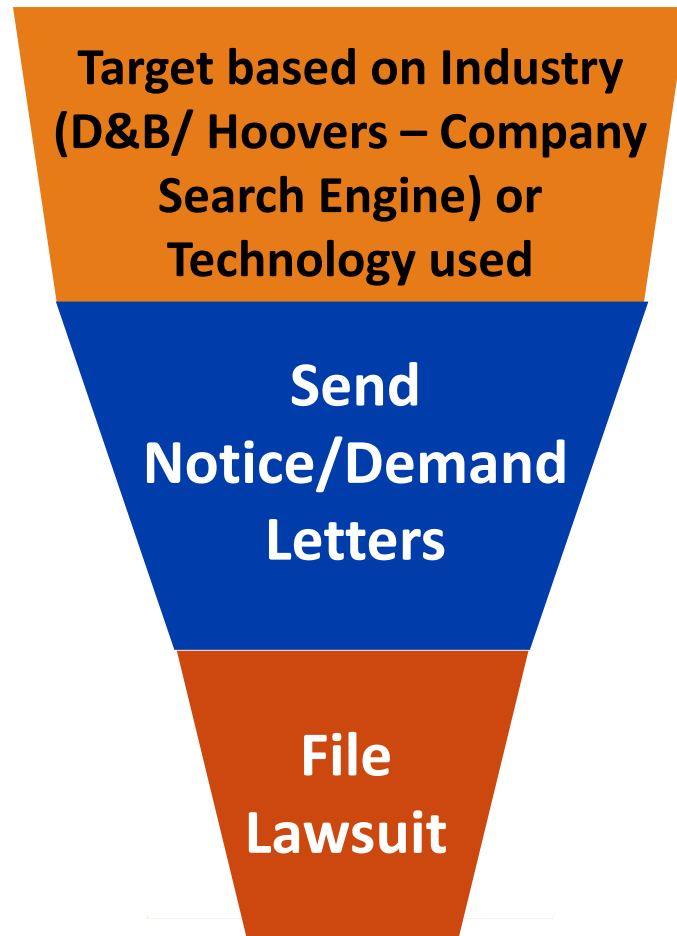
Process: Notice/Demand Letters



Types of items mentioned/addressed in notice/demand letters:

- Name of the firm that represents the disabled consumer.
- The website address of the site at issue.
- Type of violation alleged to be caused by the site:
 - American With Disabilities Act
 - California Unruh Act etc.
- A time frame to fix these issues or notice that suit will be filed.

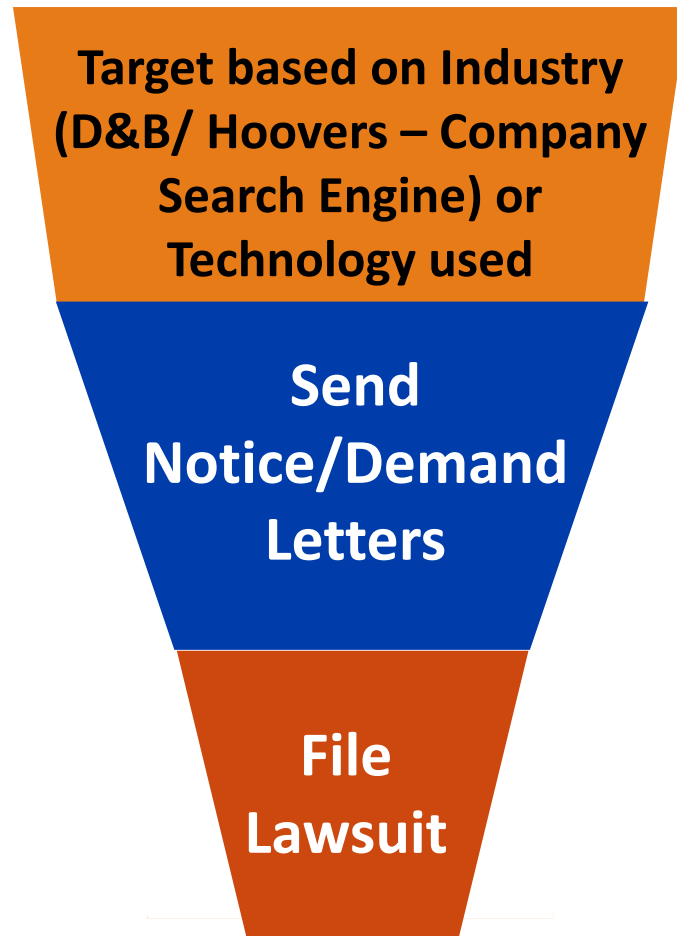
Process: Lawsuit



Elements Found in a Typical New York Southern District Complaint:

- Defendant failed to design its website to be fully accessible to Plaintiff – and other blind persons – and violated the Americans with Disabilities Act of 1990 (“ADA”).
- Plaintiff browsed and attempted to transact business on Defendant’s website, _____ .com The reasons Plaintiff visited the Website were to, inter alia: (i) purchase products, goods, and/or services. Plaintiff was unable to successfully do the following things because the Website was not compliant with the current ADA accessibility standards.
- Website contained/contains specific issues both at the time Plaintiff browsed it and as of the date of the filing of the complaint: (i) The screen reader fails to read the banner; (ii) The screen reader skips over certain text on the page; (iii) The screen reader fails to read the item description links; (iv) The screen reader fails to read the “cart” link when a new item is added; and (v) The screen reader fails to describe the images.
- The issues Plaintiff experienced are still found on the Website and Plaintiff still intends on purchasing a product from the Website in the future, but currently cannot.
- Since Defendant’s Website is/was not equally accessible to Plaintiff and other blind and visually-impaired consumers as it is/was to standard consumers, the Website violates the ADA. Plaintiff seeks a permanent injunction to cause a change in Defendant’s corporate policies, practices, and procedures so that Defendant’s website will become and remain accessible to blind and visually-impaired consumers.

Process: Prayer for Relief



Prayer for relief in typical New York Southern District Complaint:

WHEREFORE, Plaintiff respectfully requests this Court grant the following relief:

a. A preliminary and permanent injunction to prohibit Defendant from **violating the Americans with Disabilities Act, 42 U.S.C. §§ 12182, et seq., N.Y.C. Administrative Code §§ 8-107, et seq., and the laws of New York;**

b. A preliminary and permanent injunction requiring **Defendant to take all the steps necessary to make its Website into full compliance with the requirements set forth in the ADA, and its implementing regulations, so that the Website is readily accessible to and usable by blind individuals;**

c. A **declaration that Defendant owns, maintains and/or operates its Website in a manner that discriminates against the blind and which fails to provide access for persons with disabilities as required by Americans with Disabilities Act, 42 U.S.C. §§ 12182, et seq., N.Y.C. Administrative Code §§ 8-107, et seq., and the laws of New York;**

d. An order certifying the Class and Sub-Classes under Fed. R. Civ. P. 23(a) & (b)(2) and/or (b)(3), appointing Plaintiff as Class Representative, and his attorneys as Class Counsel;

e. **Compensatory damages** in an amount to be determined by proof, including all applicable **statutory and punitive damages and fines**, to Plaintiff and the proposed class and subclasses for violations of their civil rights under NYCHRL;

Pre- and post-judgment interest; **An award of costs and expenses of this action together with reasonable attorneys' and expert fees; and**

h. Such other and further relief as this Court deems just and proper.

Methodology

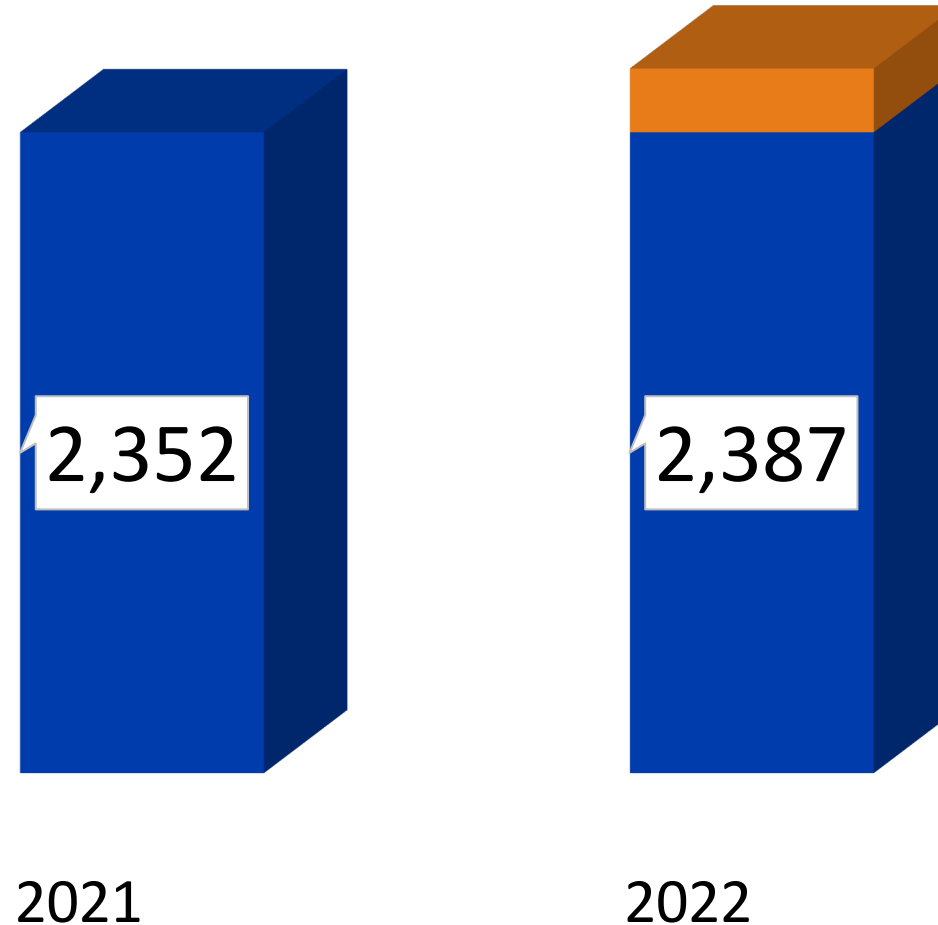
Include cases and calculate case totals that are:

- **Verifiable.** Each case reflected in our review ties directly to a case in the dockets and pleadings we review.
- **Website accessibility lawsuits.** We only include cases in which the allegation is that the digital property is not sufficiently accessible.
- **Published.** Our full database of data is freely-available to provide complete insight into the generation of lawsuit metrics and the details of the lawsuits themselves.

Total Cases

1.5% Increase Over 2021

- According to industry insiders, **97% of demand letters are settled prior to filing a lawsuit**, which suggests that over 1,500 demand letters were sent per week in 2022.



Key Considerations

- The top-filing plaintiffs continue to file 100+ lawsuits.
 - In 2022, at least two plaintiffs filed 100 or more lawsuits.
 - Perla Mageno recorded the most in 2022 with 108.
- Three law firms filed more than 340 lawsuits each — and one hit 372.
 - Five firms accounted for more than 66% of all website accessibility lawsuits.
 - All five of 2022's top-filings law firms were in the top six in 2020, 2021, or both.

Lawsuit Filings by State

- New York: 69%
- California: 27%
- Florida: 2%
- PA: <1%
- NC <1%



Most Targeted Industries

21%



Consumer Staples

17%



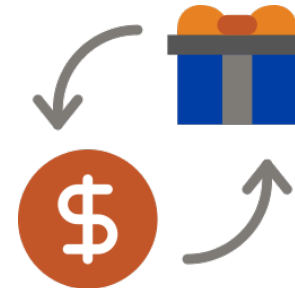
Consumer Discretionary

10%



Consumer Durables & Apparel

10%



Retailing

9%



Consumer Services

Plaintiffs Who Filed the Most Lawsuits

- Nearly 20% of all website accessibility lawsuits in 2022 were filed by five plaintiffs:
 - Perla Mageno: 108
 - Rebecca Castillo: 100
 - Rusty Rendon: 86
 - Luis Licea: 84
 - Marina Iskhakova: 81
- For the second straight year, individual plaintiffs filed more than 100 lawsuits.
- This trend first registered on our database in 2021.
- Two of 2022's top-filing plaintiffs, Rusty Rendon and Luis Licea, also appeared on 2021's top-five list.

Law Firms that Filed the Most Lawsuits

- Five law firms filed more than 66% of all website accessibility lawsuits in 2022:
 - Stein Saks, PLLC (New York): 372
 - Mars Khaimov Law, PLLC (New York): 360
 - Mizrahi Kroub LLP (New York): 345
 - Manning Law, APC (California): 260
 - Pacific Trial Attorneys, APC (California): 259
- In 2021, the firm that filed that most lawsuits registered 340 cases. In 2022, three firms filed more than 340 cases.
- Each of the five top-filing law firms were in the top-six in lawsuits filed in 2020, 2021, or both.

Multiple Lawsuits on the Rise

143% increase in companies that have received multiple lawsuits year-over-year

Many individuals and organizations believe that once a company has been sued for digital inaccessibility, they cannot be sued again — or that there is a grace period before they can be sued again. The data does not support this.

2023 Predictions

- 200% increase in companies that have received multiple lawsuits.
- WCAG 2.2 will be a catalyst for a new batch of lawsuits.
- 5-10% increase in lawsuits in the first half of 2023, accelerating to 20% after the release of WCAG 2.2

The background of the slide is a photograph of a meeting. Several people are seated around a table, looking towards the camera. The image is overlaid with a semi-transparent blue filter. In the foreground, there is a white coffee cup, a small potted plant, and a person's hands holding a smartphone.

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Questions?