

# Moneyball:

## Insider Legal Analytics into Web Accessibility Lawsuits

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# Housekeeping



This webinar will be recorded and will be shared out with registrants afterwards

Real-time captioning will be provided

All participants will be muted upon entry, but will be given permission to unmute themselves during Q&A

Utilize the Chat to communicate any technical issues

# Analytics

Information resulting  
from the systematic  
analysis of data...

# eA Legal

We invest heavily in  
compliance, too.

# October

October, October, the  
month of October

# Things that make you smile

A couple of funny takeaways from the depths of the lawsuit ocean.

# Just read Amazon, why not

“Because simple compliance with the WCAG 2.1 Guidelines would provide Plaintiff and other visually-impaired consumers with equal access to the Website, Plaintiff alleges that Defendant has engaged in acts of intentional discrimination”

# Florida Lawsuit (Part 1)

As a result of Plaintiff being legally blind, before he embarks on any venture from her home, she studies the location where she is seeking to patronize through using the internet. In the case of Plaintiff's investigation of Eileen Fisher's store locations...



# Florida Lawsuit (Part 2)

Plaintiff called Defendant's store to inquire about new arrivals of women clothing, as well to find the location of stores near her home. However, Defendant's representative failed to fully assist Plaintiff and referred him to its Website. Plaintiff found out later that the store she called was the store at...

# The Big Show

Some key takeaways that you can leverage to your benefit.



# Accessibility Notice

Plaintiff attempted to locate an “Accessibility Notice” on Defendant’s computer website... with contact information for disabled individuals who have questions, concerns, or who are having difficulties communicating with...

# Trespass (Part I)

Plaintiff's tangible personal property, being his computer and the personal information and browsing history stored therein, has suffered a trespass... on each and every date that the Plaintiff has accessed Defendant's Website

# Trespass (Part II)

At all relevant times, Plaintiff did not consent to and was unaware that the Website was placing software on his computer due to his inability to effectively communicate with and fully view and access the Website.

# 92 Lawsuits + ~ 24ish

85 website only

6 mobile apps

1 website + app



# Notable and Newish

72 Class Actions

Hearing loss - Closed Captions

Motor skills - Multiple Sclerosis

Trespass

Section 504 (receive federal aid)

# Most Common Complaints

Alt text

Missing Labels

Empty Links

Redundant Links

Missing page titles



# Copy and Paste, Literally

Many law firms do not change one word on their claims from one lawsuit to the next.

Very important info.

# Rocked Industries

Clothiers – 29.2%

Food & Beverage – 21.3%

Electronic & Home – 15.21%

Education – 7.8%

Cosmetics – 6.5%



# WCAG 2.what?

WCAG 2.1 – 60 cases (65.2%)

WCAG 2.0 – 32 cases (34.8%)

# Law Firms (NY heavy)

Cohen & Mizrahi (18)

Gottlieb & Associates (18)

Stein Saks (14)

Mars Khaimov Law (13)

17 total law firms, slow month

# ADA Website Compliance

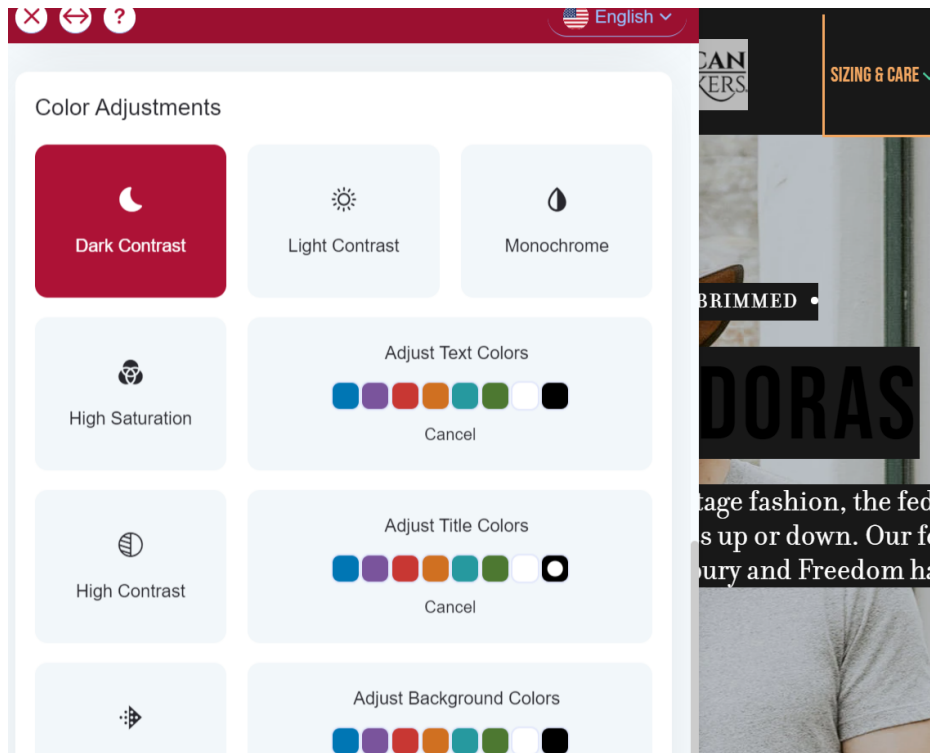
ADA cited in every single case.

Other laws too but ADA is where everything starts.

# Overlayith

3 cases

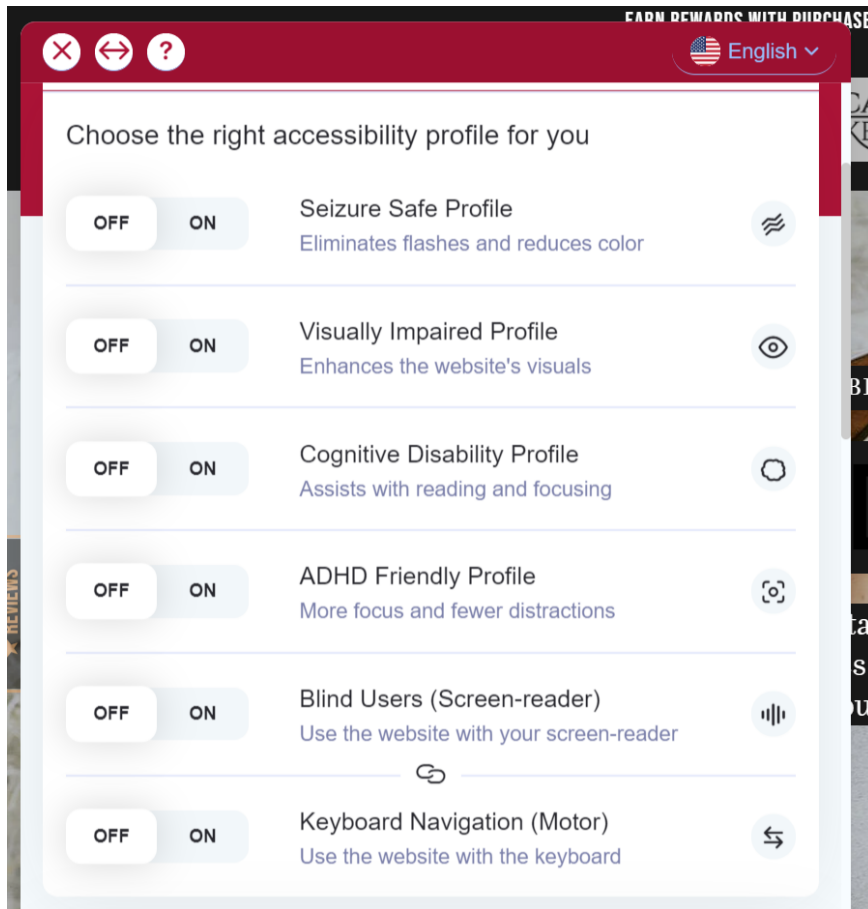
Chicken, egg-ish  
type of situation.



# Overlayith

And, hence, the failure.

Not that they're a solution, anyway.



# Online Accessibility Act

- Websites and apps
- “Substantial compliance” 2.0 AA
- Alternative means of access (improperly featured)
- Access Board (agency devs a11y guidelines) decides details



# Online Accessibility Act II

- Access Board – 2 years
- Maybe private freeze until after AB
- Small business flexibility
- Complaint process is horrible
- DOJ independent pursuit

# Online Accessibility Act III

“(b) TOLLING.—With respect to the running of the statutory periods of limitation for such action, the running of such statutory periods shall be deemed suspended during the period beginning on the date of the enactment of this Act and ending 180 days after the date the Access Board has issued final regulations...”

# Online Accessibility Act IV

- Prior to filing a complaint, an individual must notify the website owner
- If the website is not brought into compliance within 90 days, a complaint may be filed
- The deadline for to file a complaint is the 90 day window after the original 90 days
- After receiving a complaint, the Attorney General has 180 days to determine whether a violation exists

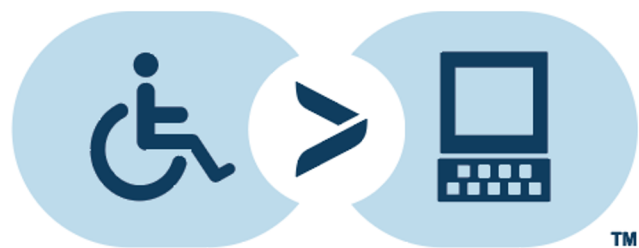
# The eA blog

## #legalanalytics

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# Thank you very much