

ELEVENTH CIRCUIT TO CONSIDER WHETHER PRIOR SETTLEMENT MOOTS WEBSITE ACCESSIBILITY CASE

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The Eleventh Circuit Court of Appeals is set to hear oral arguments on April 11 concerning whether a website accessibility plan pursuant to a prior settlement agreement moots injunctive relief claims under Title III of the Americans With Disabilities Act.

In *Haynes v. Hooters of America, LLC*, the U.S. District Court for the Southern District of Florida granted Hooters' motion to dismiss on grounds that the company has already agreed to make its website accessible pursuant to a prior settlement agreement. Judge Robert Scola held that the prior agreement rendered moot the plaintiff's ADA action, since the ADA does not provide for recovery of damages, only injunctive relief. Judge Scola is the judge that previously ruled after trial that Winn Dixie's website was not accessible in violation of the ADA.

Other retailers, including Outback Steakhouse and Panda Express, have also been successful in using the same argument against the same plaintiff to get Florida district courts to dismiss website accessibility cases against them. Panda Express initially lost its motion to dismiss, but convinced the court to reconsider and dismiss the case after the Hooters case was decided. Both the Haynes and Hooters cases are on appeal.

The Eleventh Circuit's decision could have important implications for the success of this mootness argument for other retailers, and in other jurisdictions.

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