

# RISK Alert

ACTIONABLE INSIGHTS FOR BOND POLICYHOLDERS



Alert Type

Awareness

Watch

Warning

## GROWING TREND:

### 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. Demand letters were initially delivered to credit unions in the states of California, Pennsylvania, and Florida; however, the same plaintiff firm has extended their efforts into additional states including Virginia. It is expected that this trend will continue and impact credit unions in all states.

This risk involves ambiguous requirements making it challenging; however, credit unions should take the necessary steps to ensure their websites, including online banking sites and mobile applications, are accessible to individuals with disabilities.

#### 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; however, others have also been introduced in Pennsylvania, Florida, and, most recently, Virginia.

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, the web developer must program the website or app for compatibility.

**Date:** August 14, 2017

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

**States:** All

**Share with:**

- Risk Manager
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**Credit unions can gain additional risk insights or assistance by:**

Contacting a CUNA Mutual Group Risk & Compliance Consultant at:

- **800.637.2676**  
select you're a credit union, then choose 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.

In both 2010 and 2015, the Department of Justice 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 Tips and Resources

Clearly, credit unions waiting until precise accessibility regulations are in place could have costly consequences. Follow these tips to ensure websites and mobile applications are compliant:

- Conduct a thorough risk assessment on websites and mobile applications and ensure content / services is accessible and compatible with assistive technology. W3C 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.
- Work with IT, risk / compliance teams, and vendors to ensure their websites, including online, mobile banking websites and mobile applications are accessible to people with disabilities.
- Use the [WCAG 2.0](#) to identify weaknesses that should be corrected to make the website accessible to individuals with disabilities.
- If a credit union receives 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.

In addition, these resources are designed to help credit unions better understand the magnitude of this emerging risk and introduce efforts that should be taken to mitigate potential losses.

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



### Bond Policyholders can access the Protection Resource Center:

- [Loss Prevention Library](#) for white papers & checklists
- [Webinars and Education](#)
- [RISK Alerts Library](#)

The Protection Resource Center requires a User ID and Password.

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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** or by email at [riskconsultant@cunamutual.com](mailto:riskconsultant@cunamutual.com) for additional risk insights.