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Websites: Privacy and Accessibility Litigation

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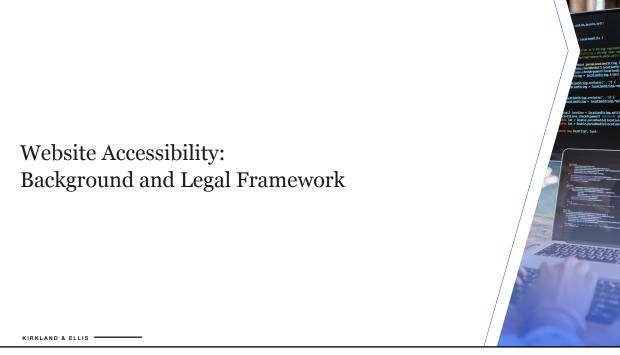
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Agenda

- 1. Website Accessibility Litigation
 - a. Background and Legal Framework
 - b. Recent Legal Trends
- 2. Website/Internet Privacy Litigation
 - a. Background and Legal Framework
 - b. Recent Legal Trends

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What Is An "Inaccessible" Website?

- ► Examples of Website Accessibility Barriers
 - Poor color contrast
 - Use of color alone to give information
 - Lack of text alternatives ("alt text") on images
 - No captions on videos
 - Inaccessible online forms
 - Mouse-only navigation (lack of keyboard navigation)

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Americans With Disabilities Act (ADA)

- ▶ Prohibits discrimination against people with disabilities in employment, public services, public accommodations, and telecommunications
- ▶ Title III: a person owning, leasing, or operating a "place of public accommodation" may not discriminate against an individual with a disability regarding the "full and equal enjoyment" of goods and services
- ▶ What is a "public accommodation"?
 - Courts generally agree the ADA applies to websites connected with a physical, brick-andmortar business
 - Courts split on application to websites for internet-only businesses

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State and Local Laws

- ► California Unruh Civil Rights Act
 - All persons are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all "business establishments of every kind whatsoever"
 - Two theories: (1) violation of ADA or (2) denial of access based on intentional discrimination
 - Applies to websites, even for out-of-state businesses, if sufficient sales to Californians
 - Unlike the ADA, which does not allow monetary damages, the Unruh Act allows recovery of up to 3x actual damages or at least \$4,000 per occurrence
 - Like the ADA, allows for recovery of attorney's fees
- New York State (and City) Human Rights Laws
 - Compensatory damages, civil penalties and fines, and attorney's fees

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Title search: Websites: Privacy and ADA Litigation

Also available as part of the eCourse 2023 Technology Law eConference

First appeared as part of the conference materials for the 36th Annual Technology Law Conference session "Websites: Privacy and ADA Litigation"