

## MEMORANDUM

**To:** Dede Heatwole, General Counsel  
**From:** Karen Laisne, Associate Counsel  
**Re:** Summary and Analysis of Gil v. Winn-Dixie Stores, Inc., (C.A. No. 16-23020-Civ-Scola)  
**Date:** June 21, 2017

---

On June 12, 2017, a federal judge in Florida ruled that the Winn-Dixie chain of grocery stores violated Title III<sup>1</sup> of the Americans with Disabilities Act (“ADA”) by failing to make its website accessible. Plaintiff Juan Carlos Gil was visually impaired and lived in Florida, and regularly shopped at Winn-Dixie stores. After hearing that Winn-Dixie’s website was accessible and offered coupons and prescription refills online, he visited their website. Using a screen reader, he was unable to access approximately 90% of the site. He then filed suit against the grocery store chain, seeking to require Winn-Dixie to make their site accessible. After a two-day non-jury trial, the judge agreed and ruled that Winn-Dixie violated Gil’s rights under the ADA.

While Title III of the ADA does not apply to the University, this case is important as it is the first of its kind where a federal judge has determined that a business with a commercial website must provide an accessible website to all customers. The website must provide individuals with disabilities full and equal enjoyment of goods, services, facilities, privileges, advantages or accommodations that are offered to sighted customers. Winn-Dixie’s website is substantially integrated with its physical store locations, and operates as a gateway to these locations. Customers can find coupons, refill prescriptions, and locate the nearest store via the website. This nexus theory, the link between the physical location and the website, is crucial as without these types of connections, it’s likely that the court would have held that Winn-Dixie did not violate the plaintiff’s rights.

After issuing the decision, the court allowed the parties to negotiate an appropriate timeframe to implement the terms of the decision. Similar to many of the DOJ’s consent decrees with colleges and universities, these terms included: (1) making the website accessible to individuals with disabilities who use computers, laptops, tablets and smart phones; (2) implementing a web accessibility policy that ensures its website conforms with the WCAG 2.0 criteria; (3) requiring any third-party vendors who participate on the website to be fully accessible by conforming with the WCAG 2.0 criteria; (4) posting a statement of Winn-Dixie’s accessibility policy on the homepage, along with an accessible means of submitting accessibility questions and problems; (5) providing mandatory web accessibility training to all employees who write, develop programs, code for, or publish final content to winndixie.com; and (6) conducting automated accessibility tests of its website to identify any instances where the website is no longer in conformance with WCAG 2.0.

In conclusion, while Title III does not apply to the University, the requirements to comply with website accessibility are universal across the ADA and certainly applicable under Title II. All campuses are encouraged to regularly conduct reviews of their various websites to ensure accessibility for all students.

---

<sup>1</sup> The University is not subject to Title III of the ADA, which applies to places of public accommodation and commercial facilities. The University is subject to Title II of the ADA, however.

