

The New Class Action Risk: Gift Cards Without Braille

There has been a very recent wave of class action lawsuits against restaurants, retail merchants, and other businesses claiming discrimination against the visually impaired and blind for failure to print braille information upon gift cards. We provide a quick update below.

These new lawsuits are based upon the Americans with Disabilities Act (ADA), which prohibits disability discrimination. All employers are certainly familiar with Title I of the ADA, which prohibits disability discrimination in employment. Aside from Title I of the ADA, Title III of the ADA seeks “full and equal enjoyment of the goods and services . . . of any place of public accommodation” for people with disabilities and requires private businesses that serve as places of public accommodation to remove “access barriers” that limit disabled individuals.

When the ADA was first signed into law in 1990, the lawsuits claiming ADA violations largely focused on *physical* access barriers to businesses, such as not providing a wheelchair ramp or an elevator. A few years ago, the concept of “access barriers” expanded to include websites. For instance, thousands of lawsuits were filed by blind persons alleging that websites were not accessible to them.

It appears we are at the beginning of a new wave with gift card lawsuits. Over the past two weeks, several lawsuits have been filed against retailers, restaurants, and other merchants for failing to provide gift cards that are accessible to the visually impaired. At least eleven major chain stores in the Eastern District of New York and at least another eight in the Southern District of New York have been sued for not providing braille gift cards. Like the web accessibility lawsuits, these new lawsuits are filed against businesses by a handful of “serial plaintiffs” usually represented by the same small group of law firms.

The unavailability of braille gift cards is an easy target for the plaintiffs’ bar. Most businesses do not offer braille gift cards. With the plaintiffs’ bar’s tendency towards serial Title III litigation, there will likely be more gift card accessibility lawsuits.

In light of the recent lawsuits, businesses need to be mindful of whether their gift cards can pose a problem for the visually impaired. There may be legal defenses to these lawsuits, but as of yet there is little judicial precedent related to ADA gift card claims. As a practical matter, having a braille gift card option for purchase or making all gift cards braille friendly should alleviate the potential risks of class action litigation.

If you have any questions about this Information Memo, please contact [Gregory B. Reilly](#), any of the [attorneys](#) in our [Litigation Practice](#), or the attorney in the firm with whom you are regularly in contact.



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