

2023 YEAR END REPORT

ADA Digital Accessibility Lawsuit Trends Involving: Websites, Mobile, or Video

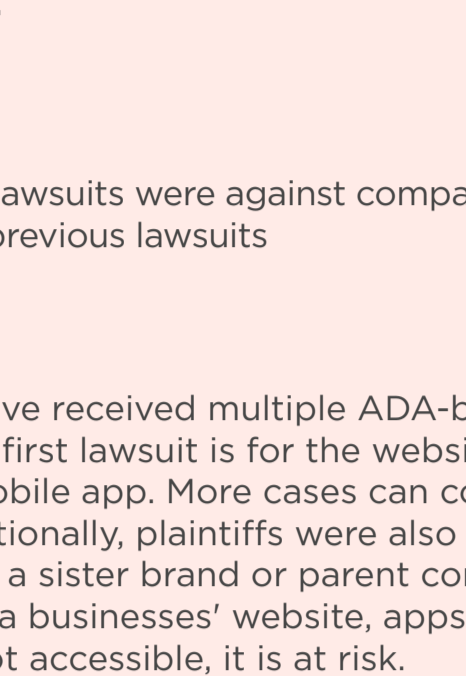
The UsableNet research team monitors and documents all digital accessibility-related lawsuits where a website, mobile app, or video content is the subject of a claim in federal courts under the ADA or in state courts in New York and California. The following report outlines trends found during 2023. Data and images can be shared when referencing UsableNet as a source and linking to www.usablenet.com.

More Than 4,600 Cases in 2023



33%

Lawsuits in state courts

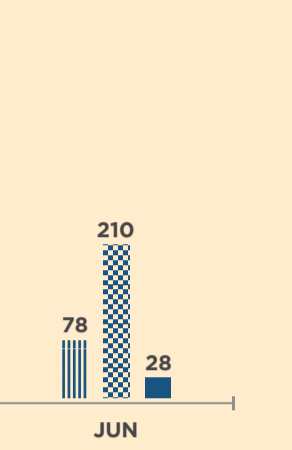


67%

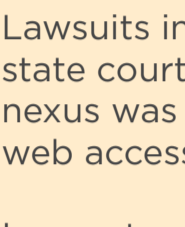
Lawsuits in federal courts

UsableNet tracked all federal court filings of ADA digital accessibility lawsuits. Additionally, we monitored state court filings in New York and California. Plaintiffs filed 3,086 lawsuits across all federal courts and 1,519 lawsuits in state courts. This trend indicates that state lawsuits are becoming as important as federal lawsuits for digital accessibility. When combining state and federal cases, plaintiffs filed 4,605 lawsuits in 2023.

Businesses Continue to Get Multiple Lawsuits



Over 700 lawsuits in 2023 were against businesses that had a previous ADA digital lawsuit.



25%

of all lawsuits were against companies with previous lawsuits

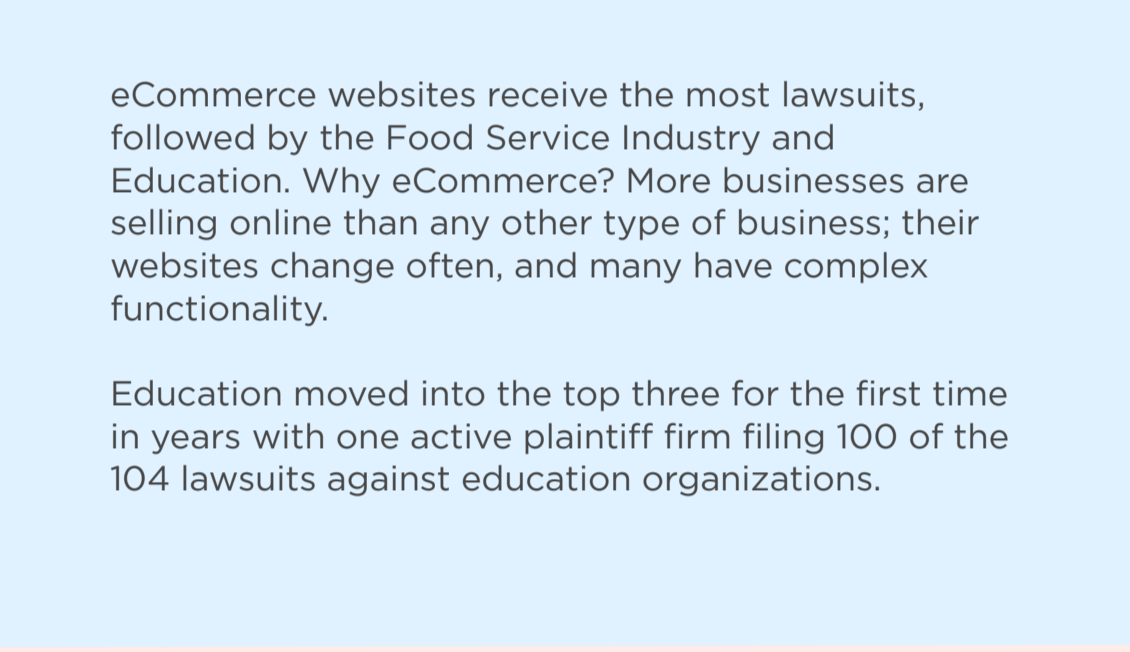
Many businesses have received multiple ADA-based lawsuits. Often, the first lawsuit is for the website and the second for a mobile app. More cases can come from new plaintiffs. Additionally, plaintiffs were also found to file lawsuits against a sister brand or parent company. The bottom line? If a businesses' website, apps, or other digital content is not accessible, it is at risk.

New York Outpaces Others



New York had more federal and state law filings than any other venue or state. Businesses do not need to be located in New York State to be sued; they only need customers in the state. Courts in New York are also less strict than other jurisdictions, not requiring businesses to have a physical location. Finally, some of the most active plaintiffs and plaintiff attorney firms are located in New York.

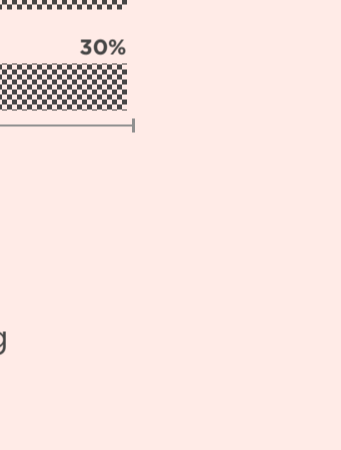
Number of 2023 cases filed in California, New York, and Florida



Lawsuits in California declined in 2023 after federal and state courts ruled in 2022 that a physical location or a nexus was necessary for plaintiffs to file an ADA-based web accessibility lawsuit.

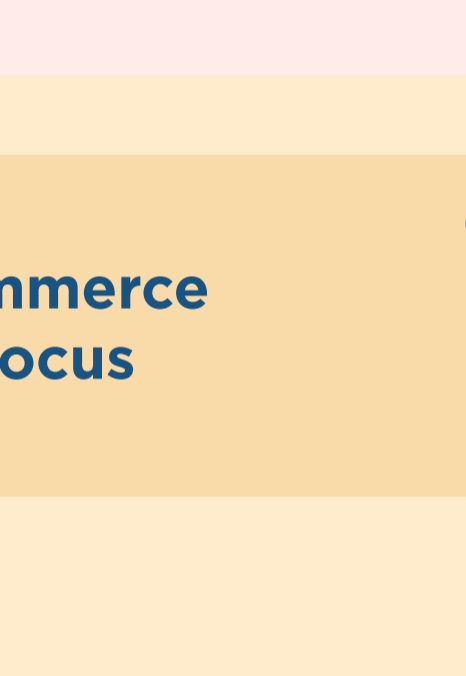
In new trends, federal lawsuits emerged in new states with no filings in 2022 with 33 total filings in New Jersey and 11 cases filed in Wisconsin.

Industry Leaderboard



18%

Other industries



82%

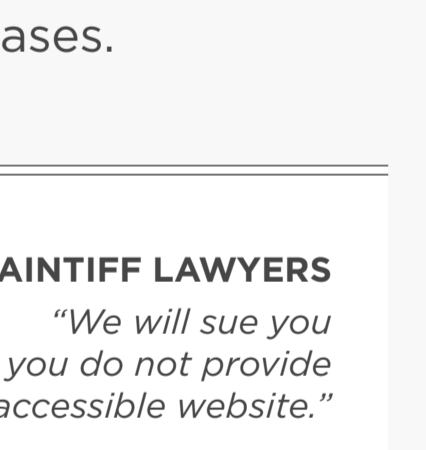
eCommerce

Industry	Total Percent
eCommerce	82%
Food Service Industry	7%
Education	4%
Healthcare	2%
Other	2%
Travel/Hospitality	1%
Fitness & Wellness	1%
Entertainment & Leisure	1%
Digital Media & Agencies	< 1%
Banking/Financial	< 1%
Real Estate Agencies & Properties	< 1%
Telecommunications	< 1%
Automotive	< 1%
Insurance	< 1%
Grand Total	100%

eCommerce websites receive the most lawsuits, followed by the Food Service Industry and Education. Why eCommerce? More businesses are selling online than any other type of business; their websites change often, and many have complex functionality.

Education moved into the top three for the first time in years with one active plaintiff firm filing 100 of the 104 lawsuits against education organizations.

Targeting Big and Small Businesses



Most businesses that received lawsuits have annual revenue under \$25 million. This trend reflects how plaintiff firms submit claims in large volumes.

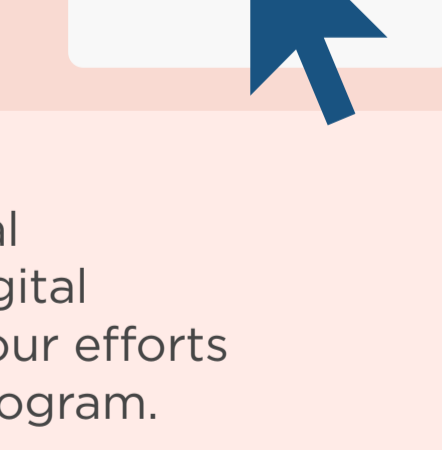
Cases filed among businesses with less or more than \$25M revenue in the 2023



This trend is a natural progression after years of lawsuits. Many big businesses have been sued and have accessibility programs, so plaintiffs are moving to smaller businesses. There are 33.2 million small businesses in America, accounting for 99.9% of all U.S. businesses per the US Chamber of Commerce, so by focusing here, plaintiffs can continue to submit claims in large volumes.

Increasing eCommerce sales due to changing consumer spending habits may also impact these numbers.

Large eCommerce Brands in Focus



21%

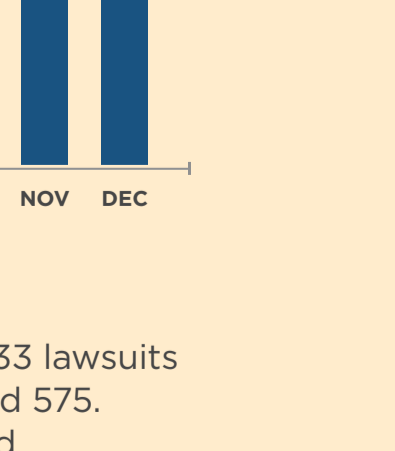
of the top 500 eCommerce retailers received a lawsuit in 2023. There were 106 cases against the top 500 eCommerce retailers in 2023.

82%

of the top 500 eCommerce retailers received lawsuits since 2018.

411 of the Internet Retailer Top 500 list received an ADA-based digital lawsuit related to one of their brands since 2018. Large eCommerce sites change content and code often and many have complex functionality that can cause screen reader problems, which may go undetected without a strong accessibility testing program in place. Large retailers are also more likely to have a physical location (nexus), which some courts have indicated is required for the digital requirements of the ADA to apply.

Leading ADA Law Firms



The top 10 plaintiff law firms accounted for more than 80% of all federally filed cases; in contrast, the top ten defense law firms represent around 20% of federal cases.

DEFENDANT LAWYERS

"We will defend you, but you should be accessible."

1 STEIN & NIEPORENT LLP

2 DENTONS US LLP

3 SEYFARTH SHAW LLP

4 JACKSON LEWIS P.C.

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6 LAW OFFICES OF NOLAN KLEIN, P.A.

7 O'HAGAN MEYER LLC

8 BLANK ROME LLP

9 MORGAN, LEWIS & BOCKIUS LLP

10 LITTLER MENDELSON P.C.

PLAINTIFF LAWYERS

"We will sue you if you do not provide an accessible website."

1 MARS KHAIMOV LAW, PLLC

2 STEIN SAKS, PLLC

3 LAW OFFICE OF NOOR SAAB

4 GOTTLIEB & ASSOCIATES

5 SHAKED LAW GROUP, P.C.

6 MIZRAHI KROUB LLP

7 NYE, STIRLING, HALE, MILLER & SWEET LLP

8 CUNNINGHAM LAW PLLC

9 ADAMS & ASSOCIATES, P.A.

10 LAW OFFICE OF PELAYO DURAN, PA

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