

Websites that violate disability laws squeezed for financial settlements

'To me, it's blackmail,' said an Orange County real estate agent. 'Suddenly, I'm not motivated to have a website'



Andres Gomez of Miami, during a video deposition done by The Karlin Law Firm of Tustin. The law firm announced on Wednesday, September 28, 2022, that they won their 17th dismissal of an ADA website lawsuit brought by the Florida man who has filed more than 600 lawsuits against small businesses in California and Florida. (Photo by Mark Rightmire, Orange County Register/SCNG)



By **TONY SAAVEDRA** | tssaavedra@scng.com | Orange County Register
PUBLISHED: October 2, 2022 at 6:50 a.m. | UPDATED: October 2, 2022 at 6:50 a.m.

Andres Gomez is a serial litigant.

That is, Gomez, who says he is legally blind, looks for websites that are not accessible to him and sues them for violating state and federal disability laws.

By one estimate, the 34-year-old Miami man has filed more than 600 disability compliance lawsuits in Florida and California since 2015, sometimes famously. Gomez sued the Kardashians' clothing stores, Dash, in 2016 and has gone after other

big name fashion retailers, alleging their websites are incompatible with the screen reading software he uses to navigate the web, according to published reports.

His attorney calls Gomez a “tester” for the Americans With Disabilities Act of 1990, a crusader fighting for the rights of the disabled, trying to wrestle businesses into online compliance by attacking their wallets.

One Orange County law firm, however, contends Gomez is a scammer and can see better than he lets on. The Tustin-based Karlin Law Firm alleges Gomez has illegally milked millions of dollars in settlements by perpetuating a hoax and strong-arming businesses big and small.

The Karlin firm has obtained dismissals in 17 of Gomez’s lawsuits.

Dan Danet, an attorney with the firm, said Gomez is a crusader not for social good but for his own profit. Danet alleged that Gomez is overstating the degree of his blindness to get money. “He files against anyone and everyone,” Danet said.

A real concern

Gomez’s lawyer, Dennis Price of San Francisco, accused the Karlin firm of playing dirty.

“It’s just a smear, an ableist smear,” Price said. “He’s an ADA tester. ... Some people have made it their life’s calling to make sure the ADA works and Mr. Gomez is one of those people.”

Access to online services is a real concern for the disabled as the world continues to shift from brick-and-mortar to the web. Federal and state law say online sites must be accessible to, among other things, screen readers, software that reads the material out loud for the blind. The sites must have closed-caption services available for the deaf and hard-of-hearing. Certain color schemes must be avoided for the benefit of the colorblind. Visitors unable to use a mouse also must be able to navigate the site with their keyboards.

“Without it being accessible, the whole online world becomes unusable (to the disabled),” said Michel Bien, a civil rights attorney in San Francisco. “Again and again, we forget about people with disabilities.”

State law allows for damages

California’s Unruh Civil Rights Act allows plaintiffs to demand damages of at least \$4,000 per occurrence plus attorney fees. Seeking damages is one of the ways that the disability statutes are enforced, attorneys say. But it also opens the door to litigation predators, who virtually make a living by demanding money from websites that fall short.

“The mere fact someone files a lot of lawsuits doesn’t make anything wrong with it,” Bien said. But he frowns on plaintiffs who collect settlements without making sure the websites are brought into compliance.

“I find it disturbing when I hear reports that attorneys are saying, ‘You don’t have to fix your problems, just give me a check for \$10,000.’ “

Kyle Wong of Midway City recently demanded \$16,000 from real estate broker Kristina Fruneaux for a website she had shut down a year ago. Wong, in his demand letter, didn’t say how he was disabled, only that he couldn’t navigate her website, which he said he recently visited.

Wong threatened to report Fruneaux to the U.S. Department of Justice and file a federal lawsuit. “I do not want to go down that road,” he ended the demand letter.

‘Nasty scheming’

Fruneaux responded by firing off a letter of her own — to the Orange County District Attorney’s Office. She wrote that Wong was “fishing for ill-gotten and undeserved gains from victims of his nasty scheming.”

“To me, it’s blackmail,” Fruneaux said in an interview. “Suddenly, I’m not motivated to have a website.”

Wong has reportedly sent out similar demand letters to 50 other real estate brokers in Orange County, some who have consulted with Danet and considered hiring him. Wong could not be reached for comment.

So large is the ADA lawsuit problem — covering physical obstructions at office and retail establishments as well as online accessibility — that it has birthed a cottage industry of sorts among lawyers. It represents much of the business at the Karlin Law Firm.

No federal standards

Part of the churn is because there are no federal standards for online accessibility violations, no guidance for how many violations are too many.

Victor Gomez, executive director of California Citizens Against Lawsuit Abuse, said the U.S. Department of Justice needs to step in and set some boundaries, perhaps issuing a grace period for offending businesses to fix their websites.

“The problem is there are no clear federal guidelines, leaving businesses vulnerable to shakedown ADA website lawsuits where they are forced to settle because the amounts that they demand are far less than the cost to litigate and defend themselves,” said Gomez, no relation to Andres Gomez.

“In these difficult economic times, it is unacceptable that many businesses first learn about website accessibility when they are served with lawsuit papers,” he said.

A software tool — available to anyone at <https://wave.webaim.org/> — is used by some businesses to help them determine if their websites are accessible to the disabled.

Doubts surface

Fast Toys Club, which puts customers into cars on a race course, was one of the companies sued by Andres Gomez, who claimed to be interested in the service.

Fast Toys was among a group of clients represented by Karlin Law. In depositions, Gomez said he could not read text that was enlarged by 3,200% — eight times larger than the largest letter on a standard eye chart.

Yet Danet said Gomez in 2015 successfully used music production software that did not accommodate his screen reader and was loaded with fine print.

Gomez also said in his sworn deposition that he could not walk without a cane or person to assist him, that he needed handrails to negotiate stairs and that he needed help finding his rideshare driver, according to Danet.

But a 16-minute video created by the Karlin firm showed Gomez climbing stairs unaided, without a cane and not using the handrail. He walked briskly to his ride share and climbed in the car without any help locating the vehicle.

The video also appeared to show Gomez reading his cellphone screen.

Gomez’s lawyer, Price, said being legally blind doesn’t mean being entirely blind.

“All I know is there is zero doubt he has a visual disability and needs screen reader software to navigate the Internet,” Price said.

In documents filed with Los Angeles County Superior Court, the Karlin firm has asked a judge to grant Fast Toys Club \$8,512 in court costs from Gomez. Price, however, said he already agreed to pay the costs and there was no reason for the Karlin firm to file the motion.

Danet said Price’s firm dragged its feet in paying the money.

He added: “Our clients also wanted us to alert the court, and the public at large, that Mr. Gomez was continuing to file cases.”