

Carter Ledyard Client Wins in Website Accessibility Suit in New York State Supreme Court

May 13, 2024

Carter Ledyard announced a favorable decision in *RODRIGUEZ, OMAR vs. BITCHIN' INC.*, Index No. 152619/2023, a website accessibility suit brought against our client, Bitchin' Inc., in New York Supreme Court. The plaintiff in this case alleged that Bitchin's website contained certain "access barriers" that prevented him and other visually impaired individuals from purchasing their products in violation of New York State and New York City equal-access public accommodation laws. We moved to dismiss the case on a number of grounds, including that the Complaint failed allege facts that could plausibly support an inference that Bitchin' discriminated against Plaintiff because of Plaintiff's disability. This decision is exciting because we believe it is one of the first (if not the first) decision rejecting this particular theory of liability and provides a good legal basis for challenging these types of lawsuits moving forward.

This suit was one of at least 43 others that plaintiff filed in 2023 against website owners and operators on the same grounds. Judge Ramseur granted Bitchin's motion to dismiss finding Plaintiff failed to state a claim. With respect to Plaintiff's disparate treatment theory of discrimination, the Court agreed the Complaint failed to provide any facts that could plausibly support an inference that Bitchin' had a discriminatory motive since Bitchin' had no idea Plaintiff was having difficulty making a purchase via the website. Indeed, Plaintiff admitted that he did not request a reasonable accommodation or otherwise contact Bitchin' prior to filing suit. With respect to Plaintiff's disparate impact theory of discrimination, the Court determined Plaintiff failed to identify any independent policy or practice having a discriminatory impact on individuals with disabilities. In the absence of Court of Appeals or Appellate Division case law suggesting that the operation of a website, in and of itself, may be the subject of a disparate impact claim, the Court could not find that the Plaintiff adequately pled an injury arising from a policy or practice of Bitchin'.

The Carter Ledyard team was led by John M. Griem, Jr., partner and Chair of the Intellectual Property Department, and Sarah H. Ganley, associate in the Litigation and Dispute Resolution practice.

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