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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

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CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS, FLORIDA

Civil Action Number:

JUAN CARLOS GIL,  
on his own behalf and on behalf of  
all Other Individuals Similarly Situated,

Plaintiffs,

*2:17-cv-464-FAM-38CM*

vs.

LEE HEALTH,  
d/b/a LEE MEMORIAL HEALTH SYSTEM  
and [www.leehealth.org](http://www.leehealth.org),

Defendant.

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**CLASS ACTION COMPLAINT**

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COMES NOW Plaintiff Juan Carlos Gil, on his own behalf and on behalf of all Other Individuals Similarly Situated, by and through his undersigned counsel, and hereby sue Defendant Lee Health doing business as Lee Memorial Health System for injunctive relief, attorney's fees and costs (including, but not limited to, court costs and expert fees) pursuant to Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12131 et. seq. ("ADA"), and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504") and alleges as follows:

**INTRODUCTORY STATEMENT**

1. Plaintiff Juan Carlos Gil brings this action in Federal Court to stop the marginalization of blind, vision impaired, and low vision patrons of Defendant Lee Health's business.

2. This is an action to end the systemic civil rights violations being committed by Defendant Lee Health against the visually impaired community of disabled individuals who seek the full and equal enjoyment of the services, facilities, privileges, advantages and accommodations of the Lee Memorial Health System within Lee County, Florida in a manner equal to that afforded to others.

3. This action alleges that Defendant Lee Health has violated federal laws and regulations by failing to insure that Lee Memorial Health System accommodates individuals with disabilities by removing barriers to access within its website, and has otherwise failed to provide means of effective communication for individuals who are visually impaired.

4. Plaintiff Juan Carlos Gil on his own behalf, and on behalf of all other individuals who are similarly situated, brings this action to stop the marginalization of the blind, vision impaired, and low vision patrons of Defendant Lee Health.

5. This case arises out of the fact that Defendant Lee Health is operating the Lee Memorial Health System in a manner that excludes individuals who are visually impaired from access to Defendant's services, programs and activities based upon Defendant's failure to provide auxiliary aids and services for effective communications.

6. This complaint seeks declaratory and injunctive relief to correct Defendant's policies and practices to include measures necessary to ensure compliance with federal law and to provide auxiliary aids and services for effective communication in the Defendant's operation of the public health system, including its [www.leehealth.org](http://www.leehealth.org) website ("Website").

7. The inaccessibility of Defendant's Website creates tangible and intangible barriers which impede the Plaintiff and other individuals who are visually impaired from the opportunity to participate in or benefit from, Defendant's goods, services, programs and activities, facilities, privileges, advantages and accommodations.

8. These discriminatory policies and practices violate Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

### **JURISDICTION & VENUE**

9. This is an action for declaratory and injunctive relief pursuant to Title II of the Americans With Disabilities Act, 42 U.S.C. §§ 12131-12133 ("ADA") and Sections 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504").

10. This Court has jurisdiction under 28 U.S.C. §§ 1331.

11. Venue in this Court is proper pursuant to 28 U.S.C. §1391(b) because Defendant resides within this Judicial District, a substantial part of the events or omissions giving rise to this cause of action took place within this district, and Defendant's Website and facilities are located in and available to the general public within this district.

### **THE PARTIES**

#### **Juan Carlos Gil**

12. Plaintiff Juan Carlos Gil (also referenced as "Plaintiff," or "Plaintiff Gil") is a resident of the State of Florida, resides within the Southern judicial district, is *sui juris*, is disabled and a qualified individual as defined by the ADA and Section 504 of the Rehabilitation Act.

13. Plaintiff Gil is legally blind due to optic nerve damage, has cerebral palsy, is unable to walk, is confined to a wheelchair, and as such, is a member of a protected class under the ADA, 42 U.S.C. § 12102(1)-(2) and the regulations implementing the ADA as set forth at 28 CFR §§ 35 *et seq.*

14. Plaintiff is substantially limited in performing one or more major life activities, including (but not limited to) accurately visualizing his world and adequately traversing obstacles and therefore, his condition meets the definition of a physical or mental impairment as to “disability,” as defined at 28 CFR § 35.108(b)

**Other Plaintiffs Similarly Situated – Class Members**

15. Other plaintiffs similarly situated to Plaintiff Gil (“Class Members”) are qualified individuals with disabilities under, and as defined by, the ADA.

16. Other plaintiffs are similarly situated to Plaintiff Gil (and therefore are Class Members) by virtue of the fact that they are visually impaired and require screen reader software (which is commercially available) in order to comprehend internet websites and acquire information in order to visit Defendant’s physical facilities.

17. Other individuals similarly situated are also unable to comprehend the Website offered by Defendant without the aid of assistive devices.

**Lee Health**

18. Defendant Lee Health (also referenced as “Defendant” and as “Lee Memorial Health System”) is a legal entity created in 1916 pursuant to Florida Statute and County ordinance to operate and manage the public health system in the County. Lee Health (“Lee Memorial Health System”) is a public health care system created by special act of the Florida Legislature, Ch. 2000-439, Laws of Florida, Special Acts, 2000. Lee

Memorial Health System is a special purpose unit of local government. It is classified as an independent special district under the laws of Florida. The original Enabling Act (Chapter 63-1552, Laws of Florida, Special Act, 1963) was enacted in 1963 and amended several times since 1963. Chapter 2000-439 constitutes a codification required by Florida Law and is the current Enabling Act.

19. Defendant conducts its business as an agency and instrumentality of both Lee County and the State of Florida and is a “public entity” subject to Title II of the ADA. 42 U.S.C. § 1231 (1)(B)

20. Defendant is also a recipient of federal funds and as such, is also subject to the requirements of Sections 504 of the Rehabilitation Act.

21. Defendant Lee Memorial Health System is domiciled in Lee County, where it provides diverse medical services, programs and activities to citizens, residents, and visitors of Lee county and operates Lee Memorial Health System which includes various facilities such as four acute care hospital locations (Cape Coral Hospital, Lee Memorial Hospital, HealthPark Medical Center, and Gulf Coast Medical Center) as well as other healthcare facilities and services, which include a home health agency, a nursing home, outpatient treatment and diagnostic centers, physician offices, a children's hospital and a rehabilitation hospital. Services at Defendant’s medical facilities include cancer care, cardiology, neuroscience, orthopedics, outpatient services, primary care, rehabilitation, surgery and urgent care.

### **FACTS**

22. Like many members of our society, Plaintiff Gil uses the internet to communicate, enrich his life, access vital information and perform necessary tasks such

as making purchases of goods and services; including accessing information about health care, medical providers and facilities.

23. Plaintiff Gil is blind, cannot use a computer without the assistance of screen reader software<sup>1</sup> and requires assistive technologies, auxiliary aids and services for effective communication.

24. Plaintiff Gil is in need of access to health care services and information such as those offered by and through Lee Memorial Health System.

25. Defendant maintains, operates and controls the [www.leehealth.org](http://www.leehealth.org) website, which is a collection of related web pages, including multimedia content, identified with said common domain name, and published on at least one web server.

26. Defendant's Website permits certain classes of individuals (excluding Plaintiff and similarly situated individuals) to: i) access their medical records on-line ii) pay their medical bills on-line, iii) find locations of an appropriate medical facility, iv) request prescription renewals, v) receive important health reminders, vi) learn about medical professionals and their specialties ("Find a Doctor" link on Website), vii) make an appointment with a doctor using their web profile's number, viii) find out about insurance, including Medicare and Medicaid covered medical services, ix) learn about financial assistance, x) inquire about clinic and hospital admissions, xi) investigate ailments and conditions and obtain comprehensive health care information through the "Health & Wellness" section of the Website, xii) view schedule for Healthy Life Center wellness classes, and xiii) fill out pre-registration forms.

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<sup>1</sup> A "screen reader" is a software application that enables people with severe visual impairments to use a computer. Screen readers work closely with the computer's Operating System (OS) to provide audible and braille information about icons, menus, dialogue boxes, files and folders.

27. In August, 2017, the Plaintiff called the Defendant to obtain information and inquire about the health care services offered by Lee Memorial Health System specific to his medical needs. Defendant's representative failed to fully assist Plaintiff Gil and referred him to its Website.

28. During the month of August, 2017, Plaintiff Gil attempted on several occasions to access Defendant's Website to learn about the services and specialties available, find doctors, locations, search insurance coverage, learn about financial assistance, and access the "Health & Wellness" section of the website; with the intention of obtaining healthcare information and making an online appointment to visit Defendant's medical facilities.

29. Plaintiff utilizes "Jaws" Screen Reader software (hereinafter referenced as "screen reader software"), which when utilized, allows individuals who are visually impaired to communicate with an accessible internet website(s).

30. Defendant's Website contains access barriers that prevent the Plaintiff and other visually impaired individuals from being able to use their keyboards and screen reading software.

31. The fact that Plaintiff could not communicate with Defendant's Website left him excluded from accessing necessary health care information including Defendant's physical locations, and further left him with the feeling of segregation, rejection, isolation, and unable to participate in Defendant's services, programs and activities in a manner equal to that afforded to others.

32. The Plaintiff also unsuccessfully attempted to locate an *Accessibility Notice*<sup>2</sup> in the Defendant's Website which would direct him to a webpage with contact information for disabled individuals who have questions, concerns or who are having difficulties communicating with Defendant.

33. Plaintiff Gil continues to desire to patronize Defendant, but is unable to do so, as he is unable to use electronic information technology to comprehend and effectively communicate with the Defendant in order to participate in the services, programs and activities offered in Defendant's Website and at Defendant's medical facilities. As such, Plaintiff and the Class Members have been excluded from, denied the benefits of Defendant's services, programs and activities and the right to effective communication and subjected to discrimination.

34. Defendant's Website is inaccessible because it does not interface with the widely and readily available technologies such as screen reader software to ensure effective communication to the visually impaired community.

35. Defendant's Website lacks prompting information and the accommodations necessary to allow visually impaired individuals who use screen reader software to read PDF documents, obtain health care information, make appointments, find physical facilities, locate and accurately fill-out online forms; pay for medical services, and view and obtain copies of patient medical records.

36. Types of website programming errors include (but are not limited to) (i) *Programming Error Types* ("PETs"), which are easily identifiable and correctable, (ii)

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<sup>2</sup> **hyperlink**, or simply a link, is a reference to data that the reader can directly follow either by clicking, tapping, or hovering. A **hyperlink** points to a whole document or to a specific element within a document.



*Programing Alert Error Types* (“PATs”), which are prone to making the website inaccessible, and (iii) Design Errors (“DE’s”), that create empty headings and text fields that create confusion for a user that rely on the ‘TAB’ key to navigate a web page.

37. A sampling review of just a *part of the* Defendant’s Website reveals that the website is not functional for users who are visually impaired. The Website contains several types of PETs, which occur throughout the Website such as:

- 1) The language of the document is not identified,
- 2) Image alternative text is not present, and
- 3) A form control does not have a corresponding label.

38. Further, the Defendant’s Website also contains various types of PATs which occur throughout the Website, such as:

- 1) Alternative text is likely insufficient or contains extraneous information,
- 2) An event handler is present that may not be accessible,
- 3) A heading level is skipped,
- 4) Flash content is present,
- 5) Adjacent links go to the same URL,
- 6) A link contains no text, and
- 7) Alternative text is likely insufficient or contains extraneous information.
- 8) More violations may be present on other pages of the website, and they will be determined and proven through the discovery process.

37. Defendant’s Website contains one or more links to PDF attachments. For example, Defendant’s Patient Pre-Registration Form located at <http://www.leehealth.org/customerservice/pdf/1683PreRegistration.pdf>. The PDF attachment’s flat surface does not contain accessible coding and does not include a text-based format (or equivalent). Defendant has not added ‘alt<sup>3</sup>’ tags or long descriptions for the PDF within its Website.

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<sup>3</sup> ‘alt’ refers to ‘alternative text’

The PDF attachment has not been provided in HTML or with a text equivalent, and is not a webpage<sup>4</sup>, therefore inaccessible to the visually impaired.

38. Further, the Website does not offer the universal symbol for the disabled<sup>5</sup> which would permit disabled individuals to access the website's accessibility information and accessibility protocols.

39. On information and belief, Defendant has not initiated an accessible ADA Policy to insure full and equal use of their business by individuals with disabilities.

40. On information and belief, Defendant has not instituted an Effective Communications Policy to insure full and equal use of its Auxiliary Aids and Services by individuals with disabilities.

41. On information and belief, Defendant has not designated an employee as an Accessibility Coordinator to insure full and equal use of its Auxiliary Aids and Services by individuals with disabilities and to investigate complaints.

42. On information and belief, Defendant has not instituted an Auxiliary Aids and Services Accessibility User Testing Group to insure full and equal use of its Auxiliary Aids and Services by individuals with disabilities.

43. On information and belief, Defendant has not instituted an Automated Accessibility Testing program.

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<sup>4</sup> (which is an internet document usually in HTML)



, or HTML "Accessibility" link for those individuals who are visually impaired

44. On information and belief, Defendant has not created and instituted a Specialized Customer Assistance line, nor service, or email contact mode for customer assistance for the visually impaired.

39. Defendant has not created a website page for individuals with disabilities, nor displayed a link and information hotline, nor created an information portal explaining when and how the Defendant will make the [www.leehealth.org](http://www.leehealth.org) website, Applications, and Digital Assets and information accessible to the visually impaired community.

40. Defendant's Website states: [we] "understand that not all patients have insurance or the same financial circumstances. We have a variety of discount programs and payment options, and specialists who can work with you one-on-one to understand your bill, your insurance coverage and assistance for which you may qualify." Furthermore the Website states [they] "have created a resource that discusses eligibility, how to apply, what financial help is available, calculating the amounts generally billed, and more" online<sup>6</sup>. However, the fact that Defendant's Website does not interface with Plaintiff's screen reader software, results in Plaintiff's inability to know that Defendant has offered assistance to the public to assist with provision of medical needs based on the public's medical insurance carrier.

41. While Defendant claims to not deny services to any member of the public and to not discriminate by placing its non-discrimination policy within its Website<sup>7</sup>, Plaintiff has been denied services because he is unable to comprehend such non-discrimination and non-denial of services as delineated within the Website.

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<sup>6</sup> <http://www.leehealth.org/businessoffice/financial-assistance.asp>

<sup>7</sup> <http://www.leehealth.org/customerservice/Patientrights.asp>

45. Defendant's Auxiliary Aids and Services do not meet the Web Content Accessibility Guidelines ("WCAG") 2.0 Basic Level of web accessibility<sup>8</sup>.

46. On information and belief, Defendant does not have an Auxiliary Aids and Services Accessibility Policy.

47. On information and belief, Defendant has not disclosed to the public any intended audits, changes, or lawsuits to correct the inaccessibility of its Auxiliary Aids and Services.

48. On information and belief, Defendant has not offered any other credible alternative Auxiliary Aids and Services for the blind and visually impaired to access the electronic information and documents it maintains in its Website.

49. Thus, the Defendant has not provided Plaintiff with full and equal enjoyment of the services, facilities, privileges, advantages and accommodations provided at its business.

50. There are readily available, well established guidelines on the Internet for making websites accessible to the blind and visually impaired. Incorporating basic Auxiliary Aids and Services components to make the Website accessible would neither fundamentally alter the nature of Defendant's business nor would it result in an undue burden to the Defendant.

51. Defendant is aware that its Website does not interface with screen reader software used by the visually impaired.

52. By virtue of the fact that Defendant operates a diverse medical facility, Defendant knew or should have known that blind and visually impaired individuals are

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<sup>8</sup> developed by the Web Accessibility Initiative (WAI) working group of the World Wide Web Consortium which defined how to make Web content more accessible to people with disabilities (W3C)

very likely to utilize medical services Defendant provides through Defendant's medical facilities.

53. The Defendant is aware of its barriers to effective communication within its Auxiliary Aids and Services which prevent individuals with disabilities who are visually impaired from the means to comprehend information presented therein.

54. The Defendant's virtual barriers to access by the visually disabled is just as real as physical barriers to access and prevents the Plaintiff and those who are similarly situated from the opportunity to have equivalent access to and fully enjoy the programs, services and activities offered by Defendant.

55. The above stated barriers are unlawful, which result in discrimination, isolation, and unequal treatment of Plaintiff as well as other blind, visually impaired or persons with low vision.

### **CLASS ACTION ALLEGATIONS**

56. Plaintiff Juan Carlos Gil brings this case as a class action pursuant to Federal Rule of Civil Procedure Rule 23, in that the class is so numerous that joinder of all members is impracticable (F.R.C.P. Rule 23(a)(1)), there are questions of law and fact common to the class (F.R.C.P. Rule 23(a)(2)), the claims and defenses of the representative party is typical of those of the class (F.R.C.P. Rule 23(a)(3)), and Plaintiff Gil (as representative party) will fairly and adequately protect the interests of the class (F.R.C.P. Rule 23(a)(4)).

57. The Members of the Class ("Class Members"), are defined as follows:

All visually impaired individuals residing within the State of Florida who were customers and/or patients of Lee Memorial Health System medical

facilities from August 2017 to the present time<sup>9</sup>, who went online to the website [www.leehealth.org](http://www.leehealth.org) and were denied means of effective communication with the Website in the course of their online activities to (among other things): access their medical records on-line, pay their medical bills on-line, find locations of an appropriate medical facility, request prescription renewals, receive health reminders, learn about medical professionals and their specialties, make appointments, find out about covered medical services (vis-a-vie insurance, Medicare, and Medicaid), learn about financial assistance, inquire about clinic and hospital admissions, investigate ailments and conditions, obtain health care information, view schedule for wellness classes, and fill out pre-registration forms.

The Class of visually impaired individuals who are legally blind and therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(1)-(2), and who require commercially available screen reader software in order to and effectively communicate with public accommodations on the internet, such as Defendant's Website.

58. The "Class Period" is August 2017 to the present.

59. Excluded from the Class are: Defendant, its employees, its legal representatives, assigns, and successors, any entity which owns/controls Defendant and its agents and assigns, and any entities in which Defendant has a controlling interest. Also excluded is the Judge to whom this matter has been assigned, and including the Judge's immediate family and staff.

60. Plaintiffs reserve the right to revise the Class definition based upon facts learned in the course of litigating this matter and through the discovery process.

61. The Class is so numerous that a joinder of each individual member is impracticable (F.R.C.P. Rule 23(a)(1)).<sup>10</sup>

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<sup>9</sup> or who were acting on behalf of others, whom were customers of Lee Memorial Health System System medical facilities

<sup>10</sup> according to the National Federation for the Blind (Statistics for 2013, see <http://www.NFB.org/blindness-statistics>) there are 7,327,800 Americans with visual disabilities living within the United States and 494,900 such individuals with visual disabilities living within the state of Florida.

62. There are numerous common questions of law and fact, including but not limited to:

- a. Whether Defendant has violated Title II of the ADA and Section 504 by failing to provide meaningful access to its website; and
- b. Whether Defendant has violated Title II of the ADA and Section 504 by failing to make reasonable modifications in its policies, practices, or procedures to ensure that people who use screen reader software have the opportunity to fully enjoy the programs, services and activities offered by Defendant.

63. The claims of the Plaintiffs are typical of the claims of the class because they arise from the same course of conduct engaged in by Defendant, are based on the same alleged violations of the same statutes and regulations, and seek the same relief.

64. Plaintiff Gil is representative of the Class due to the fact that he suffers from a qualified disability, in that he is legally blind (therefore visually impaired) and requires screen reader software interface in order to comprehend and effectively communicate with public accommodations on the internet, such as Defendant's Website.

65. Certification under Rule 23(1)(A) is proper here because prosecuting separate actions by or against individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the Defendant.

66. Certification under Rule 23(b)(2) is also proper here because Defendant has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive or declaratory relief with respect to the class as a whole.

67. The questions of law or fact common to class members predominate over any questions affecting only individual members and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

68. Similarly, the claims and defenses to be raised by and against the parties herein are typical of the claims or defenses which would be raised by the members of the Class if they were a party to this action.

69. Plaintiff Gil seeks injunctive relief for the implementation of the relief provided by the ADA which is the same relief which would be sought by each class member if he or she brought a claim individually. Accordingly, Plaintiff Gil (as representative party for the Class) will fairly and adequately protect the interests of the Class Members.

70. Defendant has discriminated against Plaintiff Gil and Class Members by denying effective communication in its website and in its auxiliary aids and services.

71. Defendant has failed to provide any mechanism within its website by which to adequately serve visually impaired individuals such as Plaintiff Gil and Class Members. The Defendant has been and is operating its Website in violation of Plaintiff's and Class Members' rights as protected by the ADA. Plaintiffs and Class Members are entitled to injunctive relief.

72. Plaintiff Gil and Class Members have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit for and injunctive relief is their only means to secure adequate redress from Defendant's unlawful and discriminatory practices.



73. Plaintiff Gil and Class Members will continue to suffer irreparable injury from Defendant's intentional acts, policies, and practices set forth herein unless enjoined by the court.

74. Notice to Defendant is not required as a result of its failure to cure the violations.

75. Unless enjoined by this Court, Plaintiff Gil (and the Class Members) will suffer continuous and ongoing harm from the Defendant's omissions, policies, and practices as set forth herein.

76. Plaintiff Gil (on his own behalf and on behalf of Class Members) has been obligated to retain the undersigned counsel for the filing and prosecution of this action. Plaintiff is entitled to have reasonable attorneys' fees, costs and expenses paid by the Defendant.

77. Enforcement of Plaintiffs' rights is right and just pursuant to 28 U.S.C. §§ 2201, 2202.

78. Plaintiffs reserve the right to revise the class definition based upon facts learned in the course of litigating this matter and through the discovery process.

#### **COUNT I – VIOLATIONS OF TITLE II OF THE ADA**

79. Plaintiff Juan Carlos Gil (on his own behalf and on behalf of Class Members) re-alleges and incorporates by reference the foregoing allegations and would further state as follows:

80. The broad mandate of the ADA is to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American

civic and economic life and that mandate extends to internet websites operated by entities including Defendant and its operation of the [www.leehealth.org](http://www.leehealth.org) website.<sup>11</sup>

81. Title II of the ADA mandates that no qualified individual with a disability shall, by reason of such disability, be excluded from full and equal participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity, 42 U.S.C. § 12132.

82. 42 U.S.C. §12131(1)(b) states that a public entity includes any instrumentality of a state or local government.

83. Defendant is an agency and instrumentality of Lee County and/or the State of Florida and is subject to Title II of the ADA.

84. Defendant is required to provide full and equal enjoyment of its services, programs, and activities in the most integrated setting appropriate to people with disabilities. 42 U.S.C. §12131, et. seq.; 28 C.F.R. Part 35.

85. As a public entity, Defendant must:

a) Ensure that no individual is discriminated against on the basis of disability or excluded from participation or denied the benefits of services, programs, or activities. 28 C.F.R. §35.130(a),

b) Ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals unless the public entity can demonstrate that taking those steps to modify policies, practices,

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<sup>11</sup> Congress expressly stated when passing the ADA, “the types of accommodation and services provided to individuals with disabilities, under all of the titles of this bill, should keep pace with the rapidly changing technology of the times” and technological advances “may require public accommodations to provide auxiliary aids and services in the future which today would not be required.”

or procedures would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. §35.130(b)(7).

c) Ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals unless the public entity can demonstrate that legitimate safety requirements are necessary for safe operation. Any safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities; 28 C.F.R. §35.130(h).

86. The Department of Justice (“Department”) has long taken the position that State and local government websites are covered by the ADA. In other words, the websites of public entities covered by Title II of the statute are required by law to ensure that their sites are fully accessible to individuals with disabilities<sup>12</sup>.

87. The Court has held that, when services available on an internet website have a connection to a physical Place of Public Accommodation, that website falls within the ADA’s *Place of Public Accommodation* requirement; *Peoples v Discover Financial Services, Inc.*, 2009 WL 3030217, 2 (E.D. Pa. 2009).

88. According to 28 C.F.R. §35.104, the required auxiliary aids and services includes “screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to

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<sup>12</sup> See: Statement of Eve Hill Senior Counselor to the Assistant Attorney General for the Civil Rights Department of Justice - Before the Senate Committee on Health, Education, Labor & Pensions United States Senate – Concerning The Promise of Accessible Technology: Challenges and Opportunities – Presented on February 7, 2012.

individuals who are blind or have low vision.”

89. As a result of the virtual barriers within its Website, the visually impaired are also being denied the full and equal access to Defendant’s medical facilities in a manner equal to that afforded to others; in derogation of Title II of the ADA and Section 504.

90. Defendant’s Website is an integral part of Lee Memorial Health System’s provision of medical, professional and informational services as well as a gateway to access its facilities and by this nexus, the website is subject to Title II of the ADA as well as Sections 504 of the Rehabilitation Act.

91. In addition, as a public entity, Defendant and Lee Memorial Health System (which it operates) may not, directly or through contractual or other arrangements, utilize methods of administration that deny individuals with disabilities access to said public entity’s services, programs, and activities or that perpetuate the discrimination of another public entity; 28 C.F.R. § 35.130(b)(3).

92. As a public entity, Defendant is required pursuant to Title II to make reasonable modifications in its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity; 28 C.F.R. § 35.130(b)(7).

93. As a public entity, Defendant must also take appropriate steps to ensure that its communications with individuals with disabilities are as effective as communications with others, and furnish the appropriate auxiliary aids and services, (such as accessible electronic documents), to afford individuals with disabilities an equal

opportunity to participate in, and enjoy the benefits of its services, programs, or activities, see 28 C.F.R. §§ 35.160(a)-(b).

94. Defendant is required to provide its auxiliary aids and services in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability; 28 C.F.R. 36.303 (c)(ii)

95. The electronic information maintained by Defendant in its Website must be formatted in a manner that complies with all State and Federal laws, including without limitation, the Americans with Disabilities Act and Section 508 of the Federal Rehabilitation Act of 1973 as incorporated into Florida law by Section 282.603, Florida Statutes.

96. The failure of Defendant's Website to be accessible impedes Plaintiff and similarly situated visually impaired individuals from fully accessing the Defendant's medical programs, services and facilities, and in so doing, Defendant has discriminated against the visually impaired.

97. It is clear that the ADA applies to the Defendant's Website for the following reasons: (1) the statutory construction of the ADA demonstrates its applicability is not limited to physical "brick and mortar" locations; (2) Congress' intent was for the ADA to be responsive to changes in technology; and (3) the Department of Justice has interpreted the ADA to apply to websites.

98. The ADA's legislative history makes it clear that Congress intended the ADA to adapt to changes in technology, such as the technology afforded through websites, the internet and e-commerce. Congress has stated that "the types of accommodation and services provided to individuals with disabilities . . . *should keep*

*pace with the rapidly changing technology of the times.” Nat’l Ass’n of the Deaf v. Netflix, Inc.*, 869 F. Supp. 2d at 200 (D. Mass. 2012)<sup>13</sup> *Netflix*, (citing H.R. Rep. 101-485(II), at 108 (1990)); *Nat’l Fedn. of the Blind v. Scribd Inc.*, 97 F. Supp. 3d, 574 (same) (D. Vt. 2015)<sup>14</sup> (emphasis added). For example, Congress identified “information exchange” (the principal function of a website) as an important area of concern where expanding technology would be subject to the ADA. *Scribd*, 97 F. Supp. 3d at 574 (citing H.R. Rep. 101-485(II), at 108 (1990)).

99. Recent case law supports that the intangible barriers presented within Defendant’s Website are violative of the ADA. In rendering his decision that Winn Dixie Stores, Inc.’s website contained barriers to access which are prohibited by the ADA<sup>15</sup>, Judge Scola drew upon the decision in *Rendon v. Valleycrest Prods., Inc.* 294 F.3d 1279, 1284 n.8 (11th Cir. 2002), where the Eleventh Circuit noted that the plain language of Title III of the ADA covers both tangible, physical barriers that prevent a disabled person from accessing a public accommodation, as well as “**intangible barriers**, such as eligibility requirements and screening rules or discriminatory policies and procedures that restrict a disabled person’s ability to enjoy the defendant entity’s goods, services and privileges . . . .” 249 F.3d at 1283 (**emphasis added**).

100. At the present time and since the Website’s inception, Defendant has

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<sup>13</sup> the plaintiff sued Netflix, Inc., (“Netflix”) under Title III of the ADA based on Netflix’s failure to provide equal access to its video streaming website “Watch Instantly” for deaf and hearing impaired individuals. There, the plaintiff alleged the website itself was a place of public accommodation because the website qualifies as a “place of exhibition and entertainment,” “place of recreation,” “sales or rental establishment,” and “service establishment” as enumerated by the ADA. *Id.* at 200.

<sup>14</sup> wherein the plaintiff filed a complaint alleging a violation of the ADA against Scribd, Inc., (“Scribd”), in that it provided a digital library operating reading subscription services on its websites and mobile app which were incompatible with reader software and denied blind persons’ access to Scribd’s services

<sup>15</sup> *Juan Carlos Gil v Winn Dixie Stores, Inc.* No. 16-cv-23020 [DE #63].

provided inadequate service, and ineffective communications and services. Plaintiff's injury is real, has occurred and is continuing. Plaintiff's injury will continue to occur until it is absolutely clear that Defendant's wrongful behavior is remedied.

101. Recent Case law supports the Plaintiffs position, that companies which that have not fully updated their websites so that they are accessible to visually impaired individuals are not immune to redress. See, *Lucia Markett v. Five Guys Enterprises LLC* No. 17-cv-788 [DE #33] Order Denying Defendant's Motion To Dismiss, where the Honorable Judge Katherine B. Forrest rejected the defendant's argument that Five Guys' in-process renovation of its website which will eventually result in its website being accessible to plaintiff and other blind and visually impaired individuals (after the renovation is complete) rendered plaintiff's claim as moot.

102. By the Defendant's blatant discrimination, by its failure to provide auxiliary aids and services for use with its Website, Defendant has violated Title II of the ADA in numerous ways, including discriminatory action which occurred when the Defendant failed to maintain policies and procedures to ensure compliance with Title II of the ADA by creating barriers for individuals with disabilities who are visually impaired and who require the assistance of interface with screen reader software to comprehend and access Defendant's Auxiliary Aids and Services. These violations within Defendant's Website are ongoing.

**COUNT II – VIOLATION OF SECTION 504 OF  
THE REHABILITATION ACT**

103. Plaintiff Juan Carlos Gil (on his own behalf and on behalf of Class Members) re-alleges and incorporates by reference the factual allegations set forth above.

104. Plaintiff Gil is legally blind, which substantially limit him in his major life activities, including his ability to effectively communicate in the sighted world. Therefore, Plaintiff Gil is a qualified individual with a disability under Section 504 of the Rehabilitation Act. Likewise, Class Members are similarly situated.

105. Defendant is a recipient of federal financial assistance by virtue of its receipt of Medicare, Medicaid payments, Federal Grants as well as other federal financial assistance including federal funds and assistance from the U.S. Department of Health and Human Services.

106. Congress enacted the Rehabilitation Act in 1973 to enforce the policy of the United States that all programs, projects, and activities receiving federal assistance “. . . be carried out in a manner consistent with the principles of . . . inclusion, integration, and full participation of the individuals [with disabilities].” 29 U.S.C. § 701(c) (2000).

107. Section 504 of the Act prohibits recipients of federal funding from discriminating against disabled persons and requires that facilities, programs or activities operated by a federally-funded entity be readily accessible to persons with disabilities. See 28 C.F.R. §§ 42.520.

108. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, requires that no qualified individual with a disability, on the basis of that disability, be excluded from participation in or be denied the benefit of the services, programs, activities, or to otherwise be discriminated against.

109. Specifically, as related to violations of Section 504, blind and visually impaired individuals need to comprehend and access the health care services which Defendant provides. Yet, Defendant’s Website is not equipped to effectively



communicate with blind and visually impaired individuals by being programed to interface with screen reader software.

110. As a recipient of Federal funds and pursuant to Section 504, Defendant may not deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service. 45 CFR § 84.4 (b)(1)(i).

111. As a recipient of Federal funds and pursuant to Section 504, Defendant may not afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others. 45 CFR § 84.4 (b)(1)(ii)

112. As a recipient of Federal funds and pursuant to Section 504, Defendant may not provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others. 45 CFR § 84.4 (b)(1)(iii).

113. As a recipient of Federal funds and pursuant to Section 504, Defendant may not provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others. 45 CFR § 84.4 (b)(1)(iv).

114. As a recipient of Federal funds and pursuant to Section 504, Defendant may not aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program or activity. 45 CFR § 84.4 (b)(1)(v).

115. As a recipient of Federal funds and pursuant to Section 504, Defendant may not deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards. 45 CFR § 84.4 (b)(1)(vi).

116. As a recipient of Federal funds and pursuant to Section 504, Defendant may not otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service. 45 CFR § 84.4 (b)(1)(vii).

117. As a recipient of Federal funds and pursuant to Section 504, Defendant may not (directly or through contractual or other arrangements) utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State. 45 CFR § 84.4 (b)(4).

118. As a recipient of Federal funds and pursuant to Section 504, Defendant is required to evaluate (with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons) its current policies and practices and the effects thereof that do not or may not meet the requirements of this part. 45 CFR § 84.6 (c)(1)(i).

119. As a recipient of Federal funds and pursuant to Section 504 Defendant is required to modify (after consultation with interested persons, including handicapped

persons or organizations representing handicapped persons) any policies and practices that do not meet the requirements of this part. 45 CFR § 84.6 (c)(1)(ii).

120. As a recipient of Federal funds and pursuant to Section 504, Defendant is required to take (after consultation with interested persons, including handicapped persons or organizations representing handicapped persons) appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices. 45 CFR § 84.6 (c)(1)(iii).

121. As a recipient of Federal funds and pursuant to Section 504, Defendant is required to designate at least one person to coordinate its efforts to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. 45 CFR § 84.7 (a) & (b).

122. As a recipient of Federal funds and pursuant to Section 504 Defendant is required to insure that no qualified handicapped person is denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any of its programs or activities because its facilities are inaccessible to or unusable by handicapped persons. 45 CFR § 84.21

123. Defendant has discriminated against Plaintiff Gil and Class Members in the unequal provision for use and access of its facilities and as a result, Plaintiff Gil and Class Members have experienced exclusion, segregation, mental anguish, and humiliation in violation of their civil rights.

124. Defendant's policies, practices and procedures, particularly the actions and omissions described above, violated Plaintiff Gil and Class Members' rights under Section 504 by discriminating on the basis of a disability.

125. Defendant has discriminated against Plaintiff Gil and Class Members by failing to provide auxiliary aids and services necessary to ensure effective communication with individuals who are blind or visually impaired, in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

126. Defendant's actions were as a result of commissions or omission and deliberate indifference to the rights of Plaintiff Gil and Class Members.

127. As a result of Defendant's actions, Plaintiff Gil and Class Members have been damaged and have suffered injuries and shame, humiliation, isolation, segregation, experienced emotional suffering, pain and anguish.

128. For all of the foregoing, Plaintiff Gil and Class Members have no adequate remedy at law.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Juan Carlos Gil and Class Members hereby demand judgment against Defendant Lee Health including a declaratory judgment, pursuant to Rule 57 of the FRCP stating that the Defendant's practices, policies, and procedures have subjected Plaintiff and Class Members to discrimination in violation of Title II of the ADA and Section 504 of the Rehabilitation Act, permanently enjoin the Defendant from any practice, policy and/or procedure which will deny Plaintiff equal access to, and benefit from Defendant's services, programs, activities and facilities, as well as:

- a) certify this matter as a Class action on behalf of the Class defined above, appoint Plaintiff Juan Carlos Gil as Class representative, and appoint the undersigned as Class counsel;
- b) issue a declaratory judgment that Defendant has violated Plaintiff Juan Carlos Gil's (and Class Members') rights as guaranteed by Title II of the ADA and Section 504 of the Rehabilitation' Act;
- c) enter an Order requiring Defendant to update its [www.leehealth.org](http://www.leehealth.org) website to remove barriers in order that individuals with visual disabilities can access the Website and effectively communicate with the Website to the full extent required by Title II of the ADA and Section 504 of the Rehabilitation Act, including compliance with Web Content Accessibility Guideline 2.0 level AA (WCAG 2.0 AA”);
- d) enter an Order requiring Defendant to clearly display the universal disabled logo<sup>16</sup> within its Website, wherein the logo would lead to a page which would state Defendant's accessibility information, facts, policies, and accommodations to insure that individuals who are disabled are aware of the availability of the accessible features of the [www.leehealth.org](http://www.leehealth.org) website;
- e) enter an Order requiring Defendant to provide ongoing support for web accessibility by implementing a website accessibility coordinator, a



website application accessibility policy, and providing for website accessibility feedback to insure compliance thereto.

- f) enter an Order directing Defendant to create policies, practices and procedures regarding auxiliary aids and services toward persons with visual disabilities;
- g) require Defendant to provide the appropriate auxiliary aids such that individuals with visual impairments will be able to effectively communicate with the Website for purposes of accessing and locating Defendant's physical locations, obtaining information on health care providers for specific ailments, accessing medical records on-line, paying medical bills on-line, as well as access to all other information and services provided on the Defendant's Website.
- h) award damages in an amount to be determined at trial;
- i) award Plaintiffs' reasonable litigation expenses and attorneys' fees; and
- j) award such other and further relief as it deems necessary, just and proper.

Dated this 14<sup>th</sup> day of August, 2017.

s/Scott R. Dinin  
Scott R. Dinin, Esq.  
FBN 97780  
**SCOTT R. DININ, P.A.**  
4200 NW 7<sup>th</sup> Avenue  
Miami, Florida 33127  
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[inbox@dininlaw.com](mailto:inbox@dininlaw.com)  
*Counsel for Plaintiff*

JS 44 (Rev. 11/15)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

<p><b>I. (a) PLAINTIFFS</b></p> <p>Juan Carlos Gil on his own behalf and on behalf of all others similarly situated</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> <u>Miami-Dade</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b></p> <p>Scott R Dinin, Esq.; Scott R Dinin, P.A.; 4200 NW 7th Avenue Miami, Florida 33127; tel 786-431-1333; email: inbox@dininlaw.com</p>	<p><b>DEFENDANTS</b></p> <p>Lee Health, d/b/a Lee Memorial Health System and www.leehealth.org</p> <p>County of Residence of First Listed Defendant <u>Lee</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;"><b>PTF</b></td> <td style="width:33%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;"><b>PTF</b></td> <td style="width:33%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District *(specify)*     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*  
 42 U.S.C. Sections 12181-12189; 28 CFR Part 36; Sec. 504 of Rehabilitation Act of 1973, 29 USC Sec 794


Brief description of cause:  
 Barriers to Access within website and barriers to effective communication

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION DEMANDS UNDER RULE 23, F.R.Cv.P.    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

*(Instructions):* JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 8/14/17 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

FTM01299 2:17-cv-464-FTM-38CM

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Lee Health Denies Blind Users Access to Online Medical Information](#)

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