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Are You Next? Trends in Digital
Accessibility Lawsuits

Legal Trends in Digital Accessibility Lawsuits

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Accessibility.com legal database

2022

Overview of Website Accessibility Lawsuits

- Process – the funnel technique
 - How websites are targeted (wide net)
 - Notice/demand letters (narrower)
 - Lawsuit – sample (even more narrow)
- Research Methodology in creating the Accessibility.com legal database
- Data: the cases, the industries, states, overlays, plaintiffs, and law firms
- Where are we headed in 2022?

Process

Target based on Industry (D&B/ Hoovers – Company Search Engine) or Technology used

built with Tools ▾ Features ▾ Plans Customers Resources ▾ Website, Tech, Keyword **Lookup**

[Home](#) / [Trends](#) / [Analytics and Tracking](#) / [accessiBe Usage Statistics](#) / [accessiBe Website List](#)

Websites using accessiBe

Download a list of all 35,621 Current accessiBe Customers

 **Download Full Lead List**

Create a **Free Account** to see more results.

Website	Location	Sales Revenue	Tech Spend	Social	Employees	Traffic
 socialcatfish.com	 United States		\$500+	500+		Medium ▾
 sprouts.com	 United States		\$10000+	10,000+	10,000+	High ▾
 drivergear.vw.com	 United States		\$10000+	1,000+		Medium ▾
 shopjustice.com	 United States	\$1.0m+	\$5000+	0+		Medium ▾
 vehiclehistory.com	 United States		\$2000+	100+		- ▾
 vegasinsider.com	 United States		\$5000+			Medium ▾
 inboxdollars.com	 United States		\$2000+	20,000+		High ▾
 smiledirectclub.com	 United States	\$1.1m+	\$10000+	5,000+	1,000+	High ▾
 511tactical.com	 United States	\$2.3m+	\$10000+	50,000+	100+	Medium ▾
 springfield-armory.com	 United States	\$25k+	\$2000+	100,000+		Medium ▾
 jdpower.com	 United States		\$10000+	5,000+	100+	Very High ▾
 vertex42.com	 United States		\$500+	1,000+	1+	High ▾
 alumni.jpmorganchase.com	 United States	\$6.1m+	\$10000+	200,000+	100,000+	Very High ▾
 savealot.com	 United States	\$234k+	\$1000+	5,000+		Medium ▾
 ibuypower.com	 United States	\$291k+	\$2000+	100,000+	100+	Medium ▾
 valleyvet.com	 United States	\$784k+	\$5000+			High ▾
 myaccount.swgas.com	 United States		\$5000+	1,000+		Medium ▾
 shoebacca.com	 United States	\$4.2m+	\$10000+	500+		Medium ▾
 shopwss.com	 United States	\$531k+	\$5000+	5,000+		- ▾

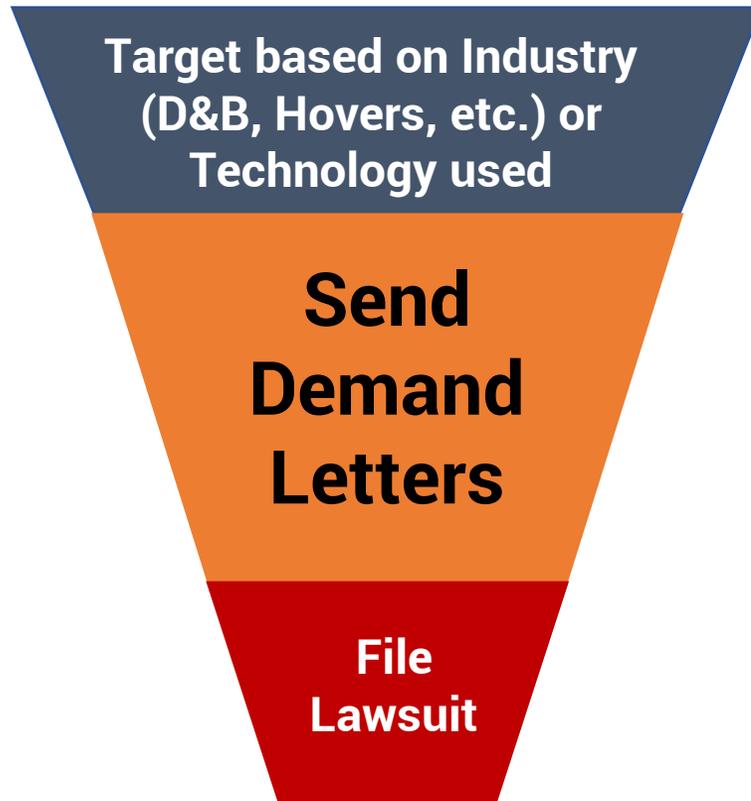
Process



Types of items mentioned / addressed in notice / demand letters

- Firm name representing the deaf or blind consumer
- Website address of the site at issue
- Violation type alleged to be caused by the site
 - American With Disabilities Act
 - The California Unruh Act etc.
- Time frame to fix these issues or simply notice that suit will be filed

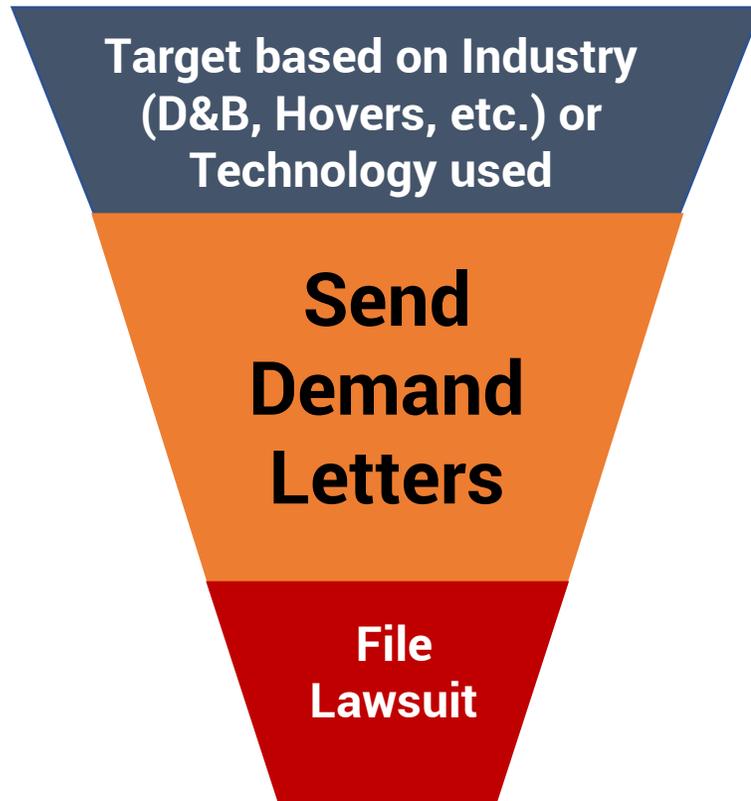
Process



Elements Found in a Typical New York Southern District Complaint:

- Defendant **failed to design its website to be fully accessible to Plaintiff** – and other blind persons – and violated the **Americans with Disabilities Act of 1990 (“ADA”)**.
- Plaintiff browsed and attempted to transact business on Defendant's website, _____com The reasons Plaintiff visited the Website were to, *inter alia*: (i) **purchase products, goods, and/or services**. Plaintiff was unable to successfully do the following things because the Website was not compliant with the current ADA accessibility standards.
- Website **contained/contains specific issues both at the time Plaintiff browsed it and as of the date of the filing of the complaint**: (i) The **screen reader fails** to read the banner; (ii) The screen reader skips over certain text on the page; (iii) The **screen reader fails** to read the item description links; (iv) The **screen reader fails** to read the “cart” link when a new item is added; and (v) The **screen reader fails** to describe the images.
- The issues Plaintiff experienced are **still found on the Website and Plaintiff still intends on purchasing a product from the Website in the future, but currently cannot**.
- Since Defendant's Website is/was not equally accessible to Plaintiff and other blind and visually-impaired consumers as it is/was to standard consumers, the **Website violates the ADA**. Plaintiff seeks a **permanent injunction** to cause a change in Defendant's corporate policies, practices, and procedures so that Defendant's website will become and remain accessible to blind and visually-impaired consumers.

Process



Prayer for relief in typical New York Southern District Complaint:

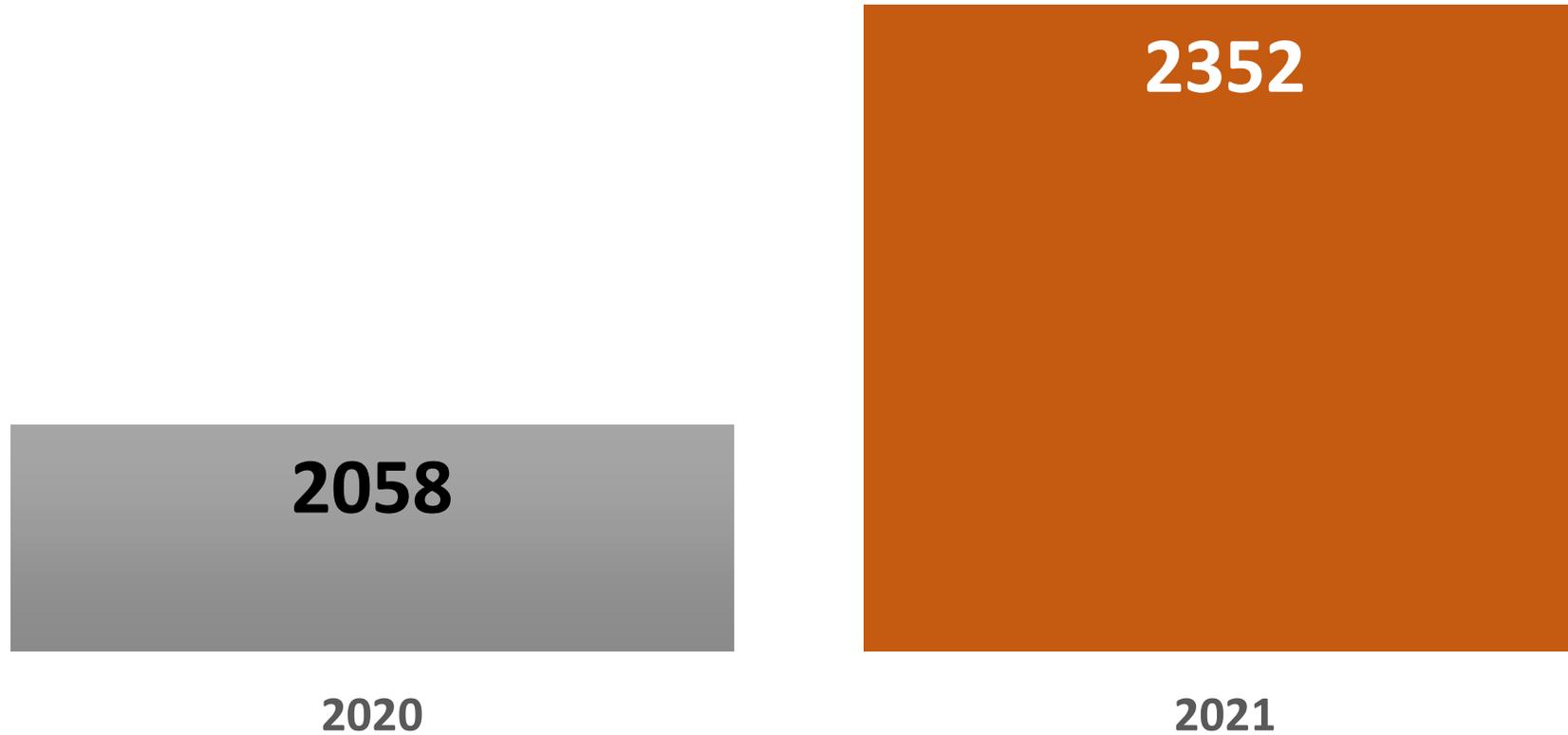
- WHEREFORE, Plaintiff respectfully requests this Court grant the following relief:
 - a. A preliminary and permanent injunction to prohibit Defendant from **violating the Americans with Disabilities Act, 42 U.S.C. §§ 12182, et seq., N.Y.C. Administrative Code §§ 8-107, et seq., and the laws of New York;**
 - b. A preliminary and permanent injunction requiring **Defendant to take all the steps necessary to make its Website into full compliance with the requirements set forth in the ADA, and its implementing regulations, so that the Website is readily accessible to and usable by blind individuals;**
 - c. A **declaration that Defendant owns, maintains and/or operates its Website in a manner that discriminates against the blind and which fails** to provide access for persons with disabilities as required by Americans with Disabilities Act, 42 U.S.C. §§ 12182, et seq., N.Y.C. Administrative Code §§ 8-107, et seq., and the laws of New York;
 - d. An order certifying the Class and Sub-Classes under Fed. R. Civ. P. 23(a) & (b)(2) and/or (b)(3), appointing Plaintiff as Class Representative, and his attorneys as Class Counsel;
 - e. **Compensatory damages** in an amount to be determined by proof, including all applicable **statutory and punitive damages and fines**, to Plaintiff and the proposed class and subclasses for violations of their civil rights under NYCHRL;
- Pre- and post-judgment interest;
- **An award of costs and expenses of this action together with**
- **reasonable attorneys' and expert fees; and**
 - h. Such other and further relief as this Court deems just and proper.

Methodology

Include cases and calculate case totals that are:

- **Verifiable.** Each case reflected in our tallies ties directly to a case in the dockets and pleadings we review.
- **Website accessibility lawsuits.** We only include cases in which the allegation is that the digital property is not sufficiently accessible.
- **Published.** Our full database of data is freely-available to provide full insight into the generation of lawsuit metrics and the details of the lawsuits themselves.

Total Cases

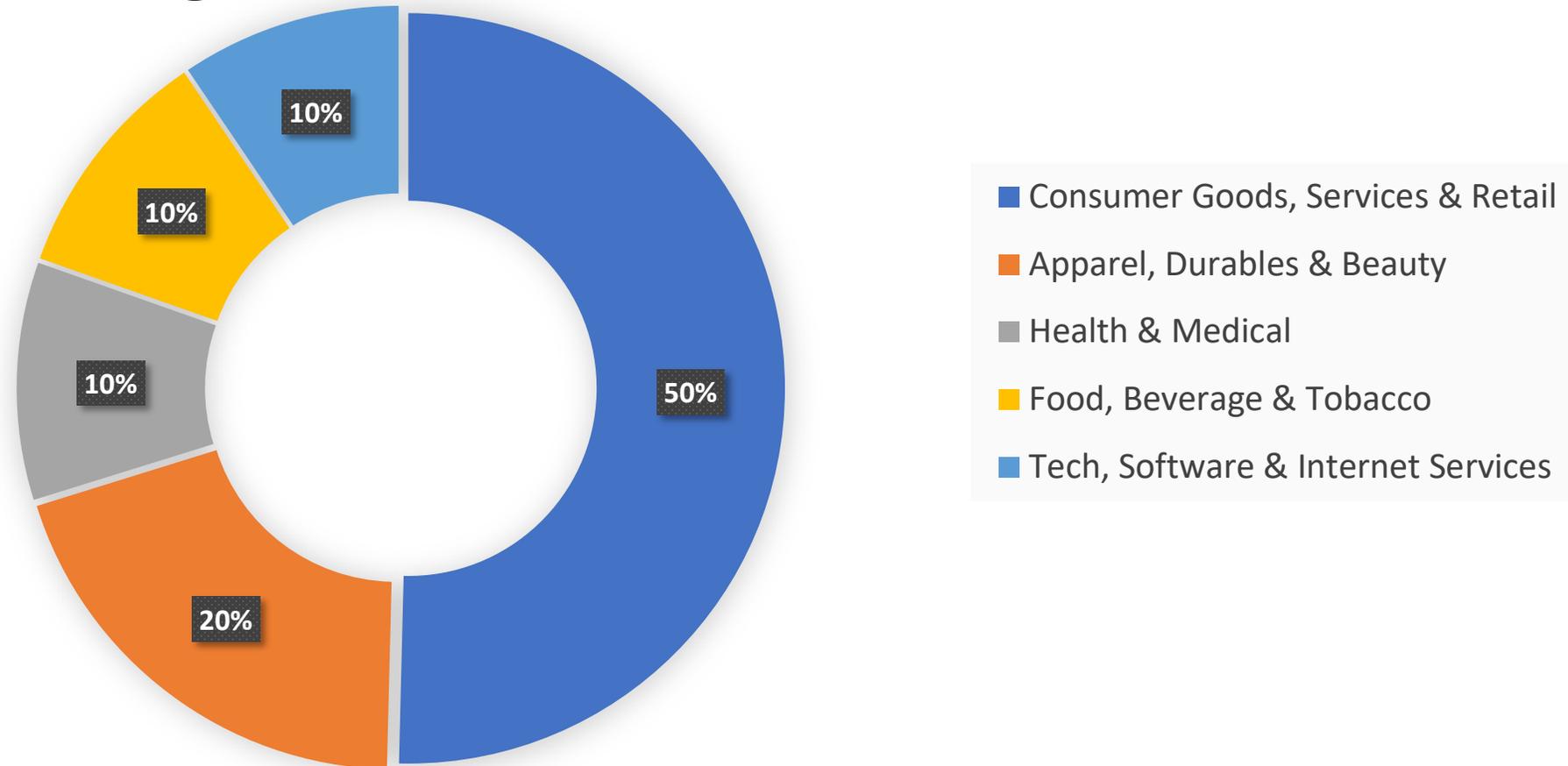


Why the increase in cases?

Key considerations for the increase in cases:

- The top-filing plaintiffs filed more lawsuits. In 2021, Cristian Sanchez **filed 139 website accessibility lawsuits** (about **48% more** than 2020's most litigious plaintiff).
- **Three law firms** filed more **than 270 lawsuits each** — and one hit 340. **Six firms** accounted for more than **56%** of all website accessibility lawsuits.
- Courts were not closed in 2021 due to **COVID-19**, like they were during the first half of 2020.

Most Targeted Industries



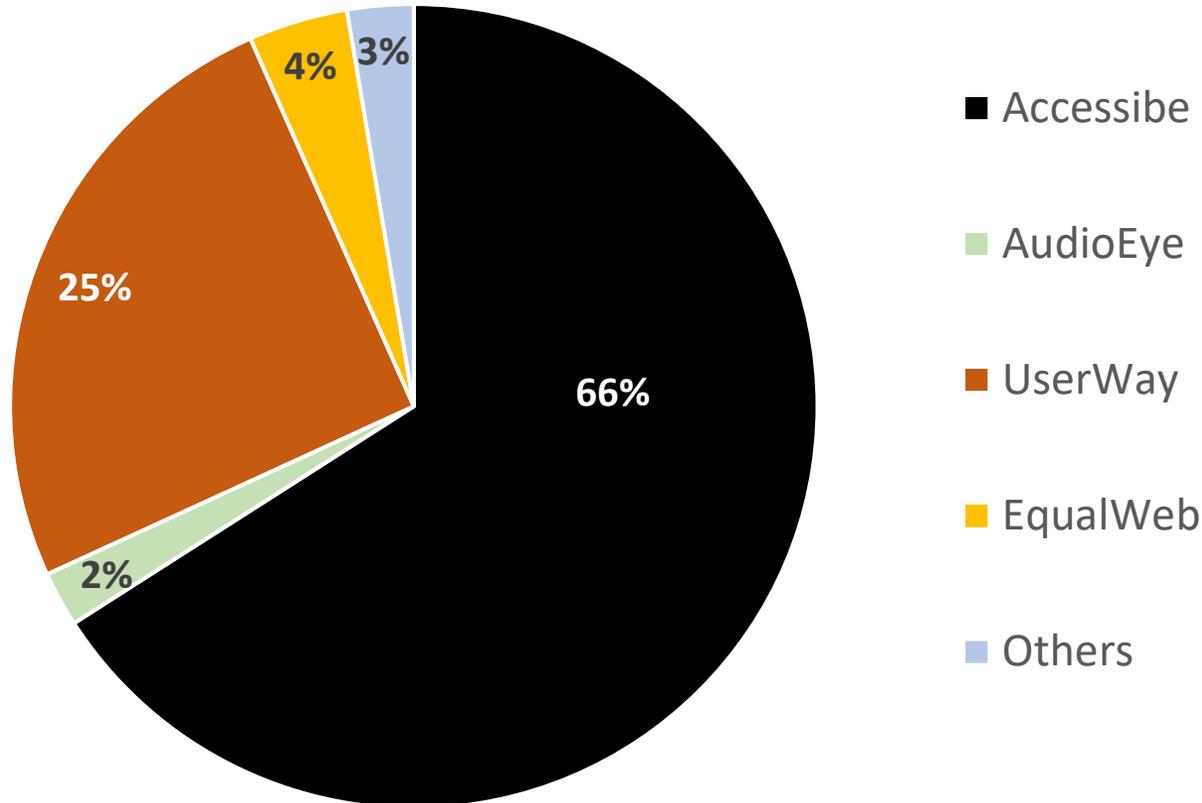
Lawsuit Filings Per State

■ New York: 62%
 ■ California: 30%
 ■ Florida: 5%
 ■ Penn: 2%
 ■ CT: .3%



Lawsuits with 3rd-Party Overlays Websites

300 targeted websites were using overlays



In December 2021, Disability Rights Advocates published a statement announcing that a settlement had been reached with ADP (payroll services), along with a copy of the settlement agreement. In the agreement is a definition of “**accessible**,” as follows:
 “Accessible” (or “Accessibility” or “Access”) means that blind and low vision individuals have independent access to the same information and equivalent ease of use of functionalities available to sighted individuals via the Website or Mobile Apps. For the purpose of this Agreement, “overlay” solutions such as those currently provided by companies such as **AudioEye** and **AccessiBe** will not suffice to achieve **Accessibility**.

Plaintiffs Who Filed the Most Lawsuits

- More than **22%** of all website accessibility lawsuits in 2021 were filed by **five plaintiffs**.
- The **top-two plaintiffs** alone filed more than **11%** of the **year's total cases**.
- For the first time in our database's history, individual plaintiffs have filed **more than 100 lawsuits**.
- For reference, last year's top-filer, Shael Cruz, filed 94 lawsuits. Unsurprisingly, more of the most-litigious plaintiffs are from **New York** than anywhere else.

*Cristian Sanchez: 139
(New York)*

*Luis Licea: 124
(California)*

*Arturo Estevez: 93
(New York)*

*Rusty Rendon: 92
(California)*

*Jose Quezada: 81
(New York)*

Law Firms that Filed the Most Lawsuits

- More than **56%** of all website accessibility lawsuits in 2021 were filed by **six law firms**.
- **Pacific Trial Attorneys** out of **California** moved up from number-three in 2020 to claim the top-filing spot with 340 cases.
- The **296** lawsuits filed by **Gottlieb & Associates** out of New York place the firm in the number-two spot for 2021, although that number is greater than 2020's high of 270 lawsuits (filed by Stein Saks, PLLC, who is not in 2021's top-six).

Pacific Trial Attorneys (California): 340

Gottlieb & Associates (New York): 296

Mizrahi Kroub LLP (New York): 273

Cohen & Mizrahi LLP (New York): 175

Lipsky Lowe, LLP (New York): 138

Manning Law, APC (California): 108

Q4: A record-setting quarter in a record-setting year

- Accessibility lawsuit momentum moving into 2022 is strong. In fact, the fourth quarter (Q4) of 2021 recorded the highest total of website accessibility lawsuits in our database's history.
- **Over the span of October, November, and December 2021:**
 - **711 web accessibility lawsuits** were filed (more than 30% of the year's total).
 - **273 lawsuits were filed by one firm, Mizrahi Kroub LLP** (38.4% of Q4's total).
 - **398 lawsuits were filed in November** (nearly 17% of the year's total).
- **Compared to historical data:**
 - **17.9% more lawsuits were filed in Q4 than in the quarter with the second-highest total** in our database's history (Q1 2021).
 - **26.9% more lawsuits were filed in Q4 2021 than in Q4 2020** (560 filed in Q4 2020).
 - **60.5% more lawsuits were filed in November 2021 than in the month with the second-highest total** in our database's history (March 2021).

Where are we headed in 2022?

- Even more website accessibility lawsuits
 - Based on Q4 trends from 2021
 - Overall nationwide awareness of website accessibility issues
- More narrowing of Plaintiff pool leading to higher individual **Plaintiff suits**
- - Can California **move passed New York as the most litigated state?**
- - Increase in usage of overlays and associated overlay related lawsuits
- New Plaintiff law firms entering the website accessibility arena
 - lots of \$ at stake
 - Low cost of entry, low risk, high reward, formulaic



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Check [Accessibility.com](https://www.accessibility.com) for more
information on our monthly and
year-end lawsuit statistics

[Accessibility.com](https://www.accessibility.com)

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