Boston College Law Review

Volume 63
Issue 9 *Electronic Supplement*

Article 7

4-29-2022

There's No Place Like Dot-Com: Are Websites Places of Public Accommodation Under Title III of the ADA?

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THERE'S NO PLACE LIKE DOT-COM: ARE WEBSITES PLACES OF PUBLIC ACCOMMODATION UNDER TITLE III OF THE ADA?

Abstract: On April 7, 2021, in *Gil v. Winn-Dixie Stores, Inc.*, the U.S. Court of Appeals for the Eleventh Circuit held that websites are not places of public accommodation pursuant to Title III of the Americans with Disabilities Act. Before the Eleventh Circuit vacated its decision in December 2021, it joined the majority of circuit courts in a split regarding whether Congress intended Title III to apply to websites and other non-physical places. The First, Second, and Seventh Circuits considered Title III's language broad or ambiguous enough to include websites. Conversely, the Third, Fifth, Sixth, Ninth, and Eleventh Circuits held that Title III unambiguously excludes websites and other non-physical places. Although it vacated *Gil*, the Eleventh Circuit's reasoning provides valuable insight as to how this court will decide when it hears another Title III appeal in the future. This comment argues that the Eleventh Circuit, with its extremely narrow interpretation of Title III, erred by disregarding the ambiguity of the Act's language and should have construed the statute in light of Congress's purpose.

INTRODUCTION

In 2021, over forty million Americans lived with a disability.[1] Like most of society, a majority of disabled American adults regularly access the Internet, many using assistive technology like software that tracks eye movement or vocalizes words on the screen.[2] Despite the proliferation of these technologies and the prevalence of people living with disabilities, studies show that upwards of seventy percent of active U.S. websites are unavailable to users with disabil-

[1] Andrew Perrin & Sara Atske, *Americans with Disabilities Less Likely Than Those Without to Own Some Digital Devices*, PEW RSCH. CTR. (Sept. 10, 2021), https://www.pewresearch.org/fact-tank/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/ [https://perma.cc/LK3Z-BUYJ].

[2] *See id.* (noting that at least seventy percent of disabled American adults use the Internet); *Usability & Web Accessibility*, YALE UNIV., https://usability.yale.edu/web-accessibility/articles/assistive-technology [https://perma.cc/EV9S-A293] (listing a variety of "assistive technologies" that improve Internet usability for people with disabilities, including visual, cognitive, and physical impairments); *see also* Stephanie Chevalier, *Leading E-Commerce Sites in the U.S. 2021, by Monthly Visits*, STATISTA (July 14, 2021), https://www.statista.com/statistics/271450/monthly-unique-visitors-to-us-retail-websites/ [https://perma.cc/7PUS-DGN7] (noting that, collectively, Amazon, ebay, and Walmart alone receive more than three billion monthly website hits in America, indicating the great volume of regular Internet activity in the United States).

ities.[3] Some of these users turned to the Americans with Disabilities Act (ADA) for legal recourse.[4] Yet it remains unclear whether the ADA applies to websites and, thus, whether a website that is inaccessible to disabled users violates federal law.[5]

This Comment examines the circuit split regarding whether websites are places of public accommodation, focusing on the U.S. Court of Appeals for the Eleventh Circuit's recently vacated decision in *Gil v. Winn-Dixie Stores, Inc.* and its usefulness for anticipating future ADA website accessibility decisions.[6] Part I of this Comment provides an overview of the legal and factual background of *Gil*.[7] Part II discusses the circuit split, explaining the divergent interpretations of Title III.[8] Finally, Part III argues that courts should recognize Title III's ambiguous language and interpret the ADA purposively, aligning with the minority approach.[9]

I. The Legal and Factual Backdrop of *Gil v. Winn-Dixie Stores, Inc.*

In 2021, in *Gil v. Winn-Dixie Stores, Inc.*, the U.S. Court of Appeals for the Eleventh Circuit considered whether a website is a "place of public accommodation" pursuant to Title III of the ADA, deciding that only physical

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[3] *See* Rebecca Wettemann & Trevor White, The Internet Is Unavailable 2 (2019) (noting that of hundreds of websites studied, fewer than thirty percent provided the study's blind users with meaningful access to the website's resources); Pia Singh, *Internet Is Far From Being Accessible for All People with Disabilities, accessiBe Says*, CNBC (July 29, 2021), https://www.cnbc.com/2021/07/26/the-internet-is-far-from-being-accessible-for-all-people-with-disabilities-advocate-says.html [https://perma.cc/9PGR-3PEU] (explaining that of the three hundred fifty million live websites in the United States, more than ninety-eight percent of them fail to become compatible with assistive technologies and are therefore considered inaccessible for disabled persons).

[4] *See* Ann-Marie Alcántara, *Lawsuits Over Digital Accessibility for People with Disabilities Are Rising*, Wall St. J. (July 15, 2021), https://www.wsj.com/articles/lawsuits-over-digital-accessibility-for-people-with-disabilities-are-rising-11626369056 [https://perma.cc/C23U-2YJ2] (stating that in the first half of 2021, plaintiffs filed more than one thousand lawsuits alleging website violations under the ADA or a related state law); *see, e.g.*, Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1271 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (noting that the plaintiff sought relief against a public accommodation operating an inaccessible website); Brooks v. See's Candies, Inc., No. 2:20-cv-01236-MCE-DB, 2021 WL 3602153, at *1 (E.D. Cal. Aug. 13, 2021) (same); Sarwar v. Om Sai, LLC, No. 2:20-cv-00483-GZS, 2021 WL 1996385, at *1 (D. Me. May 18, 2021) (same).

[5] *See* Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 12181 (defining many key terms but failing to indicate whether websites are among the entities that must comply with the ADA); *see also* Jason P. Brown & Robert T. Quackenboss, *The Muddy Waters of ADA Website Compliance May Become Less Murky in 2019*, Hunton Emp. & Lab. Persps. (Jan. 3, 2019), https://www.huntonlaborblog.com/2019/01/articles/public-accommodations/muddy-waters-ada-website-compliance-may-become-less-murky-2019/ [https://perma.cc/6ASL-XABT] (explaining that because Congress did not sufficiently envision Internet accessibility challenges, it failed to specifically identify websites as public accommodations under the ADA).

[6] *See Gil*, 993 F.3d at 1277 n.13 (explaining the court's holding in light of the circuit split).

[7] *See infra* notes 10–35 and accompanying text.

[8] *See infra* notes 39–67 and accompanying text.

[9] *See infra* notes 68–82 and accompanying text.

places are covered.[10] Eight months later, the Eleventh Circuit vacated its decision as moot, nullifying its holding that Title III does not apply to websites.[11] Nevertheless, *Gil* provides valuable insight into the court's reasoning and helps predict its position in forthcoming Title III adjudication.[12] Section A of this Part explains Title III of the ADA and discusses how Title III defines "place of public accommodation."[13] Section B discusses the procedural history and factual background of *Gil*.[14]

A. Title III of the ADA

In response to the longstanding exclusion and neglect of disabled persons, Congress enacted the ADA in 1990 to protect this population from discrimination, to afford them equal opportunities to participate fully in society, and to achieve more autonomy.[15] Beyond demanding care and protection, the ADA

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[10] *See* Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1277 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (holding that because websites are not physical places, they are not subject to Title III of the ADA); *see also* 42 U.S.C. § 12181(7)(A)–(L) (defining a variety of private entities as public accommodations). With *Gil v. Winn-Dixie Stores, Inc.*, the Eleventh Circuit became the most recent circuit court to address whether the Act covers non-physical places. *See* 993 F.3d at 1277 n.13 (noting that other circuits considered whether Title III applies to non-physical places); *see also* Weyer v. Twentieth Century Fox Film Corp., 198 F.3d 1104, 1115 (9th Cir. 2000) (finding that an insurance company's employer-provided plan does not qualify as a place of public accommodation); Ford v. Schering-Plough Corp., 145 F.3d 601, 613 (3d Cir. 1998) (discussing the Department of Justice regulation which explains that although Title III covers access to the goods and services offered at a place of public accommodation, it does not necessarily cover the goods or services themselves (quoting 28 C.F.R. pt. 36 app. B, at 640 (1997))); Stoutenborough v. Nat'l Football League, Inc., 59 F.3d 580, 583 (6th Cir. 1995) (explaining that Title III defines a place of public accommodation as a "facility" and is thus limited to "real or personal property"). *But see* Doe v. Mut. of Omaha Ins. Co., 179 F.3d 557, 559 (7th Cir. 1999) (including websites and other electronic facilities as places of public accommodation); Carparts Distrib. Ctr., Inc. v. Auto. Wholesaler's Ass'n of New Eng., 37 F.3d 12, 19 (1st Cir. 1994) (considering Title III's language broad or ambiguous enough to include non-physical places as public accommodations).

[11] Gil v. Winn-Dixie Stores, Inc., 21 F.4th 775, 776 (11th Cir. 2021).

[12] *See* Brant Biddle, *11th Circuit Vacates Opinion Holding That Websites Are Not ADA "Public Accommodations*,*"* JD SUPRA (Jan. 5, 2022), https://www.jdsupra.com/legalnews/11th-circuit-vacates-opinion-holding-8928277/ [https://perma.cc/BAX8-69BH] (stating that *Gil* illustrates the Eleventh Circuit's "inclination" to interpret Title III of the ADA as inapplicable to websites and other "non-physical places").

[13] *See infra* notes 15–22 and accompanying text.

[14] *See infra* notes 23–35 and accompanying text.

[15] Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327 (codified as amended at 42 U.S.C. §§ 12101–12213); *see* Remarks on Signing the Americans with Disabilities Act of 1990, 26 WEEKLY COMP. PRES. DOC. 1163 (July 30, 1990) (stating that the ADA guarantees disabled persons "independence, freedom of choice, control of their lives, [and] the opportunity to blend fully and equally into the rich mosaic of the American mainstream"); Arlene Mayerson, *The Americans with Disabilities Act—An Historic Overview*, 7 LAB. LAW. 1, 1 (1991) (describing the historically negative and harmful treatment of disabled persons, including segregation and stereotyping); *Discrimination*, BLACK'S LAW DICTIONARY (11th ed. 2019) (defining discrimination as effectively granting or withholding privileges to particular groups based on different identifying characteristics like

requires accommodations to encourage the contributions of disabled persons, empowering an estimated forty-three million people in America.[16]

The ADA comprises four titles, each prohibiting discrimination in different contexts.[17] Title III requires private entities operating public accommodations to treat disabled and nondisabled persons alike in their access to "goods, services, . . . or accommodations."[18] For example, Title III requires ramps and entryways that accommodate wheelchair users and text telephone services (often called TTY) for customers with hearing or speaking disabilities to ensure equal, nonsegregated access.[19]

Despite a robust public accommodation definition encompassing dozens of examples of private entities that impact commerce, courts are divided on how to interpret non-physical places, such as websites, under Title III.[20] Because Congress alluded to "other place[s]" alongside many specific public ac-

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disabled status); *Disabled Person*, BLACK'S LAW DICTIONARY, *supra* (defining disabled person as "someone who has a mental or physical impairment").

[16] *See* Mayerson, *supra* note 15, at 8 (explaining that the ADA presents disabled persons as full participants in society deserving to live in an unobstructed world); Robert L. Burgdorf Jr., *The Americans with Disabilities Act: Analysis and Implications of a Second-Generation Civil Rights Statute*, 26 HARV. C.R.–C.L. L. REV. 413, 434 & n.117 (1991) (stating that forty-three million people, though not necessarily a precise number of disabled persons, is nevertheless a reliable and helpful figure approximating the number of Americans the ADA could benefit).

[17] *See generally* 42 U.S.C. §§ 12111–12213 (outlining circumstances in which discrimination against disabled persons is prohibited). Title I prohibits discrimination in employment, Title II in public services, and Title IV provides miscellaneous provisions that explain, for example, the Act's applicability to insurance providers. *Id.* §§ 12112, 12132, 12201(c).

[18] *Id.* § 12182(a); *see* Janai Powell Lane, *Are Web Sites a "Public Accommodation" Under Title III of the Americans with Disabilities Act ("ADA") Requiring Reasonable Access for Persons with Disabilities?*, 21 LEGAL REFERENCE SERVS. Q. 75, 77 (2002) (stating that Title III broadly demands public accommodations to provide equal access to the same level of accommodation and experience for all).

[19] *See* 42 U.S.C. § 12182(b)(1)(B)–(C) (mandating that individuals with disabilities be offered access to accommodations in appropriately unified settings and be provided the chance to engage in pursuits beyond those that are separately created just for them); *ADA Update: A Primer for Small Business*, U.S. DEP'T JUST., CIV. RTS. DIV., https://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm [https://perma.cc/55RR-C3E9] (explaining that businesses shall permit disabled users to access locations and services as any non-disabled user would by providing accommodations like wheelchair ramps to enter physical locations or assistive technologies for telephone communications).

[20] *See* 42 U.S.C. § 12181(7)(A)–(L) (illustrating "public accommodation" by identifying twelve categories with examples of private entities that qualify as public accommodations like lodgings, shopping centers, and schools); Nikki D. Kessling, Comment, *Why the* Target *"Nexus Test" Leaves Disabled Americans Disconnected: A Better Approach to Determine Whether Private Commercial Websites are "Places of Public Accommodation,"* 45 HOUS. L. REV. 991, 994 (2008) (explaining that Title III's failure to address non-physical places and the fact that Congress has never taken a stance on the matter, *inter alia*, mirror a wide circuit split). *Compare* Mejico v. Alba Web Designs, 515 F. Supp. 3d 424, 434 (W.D. Va. 2021) (finding that the language of Title III does not limit places of public accommodations to "physical structures"), *and* Carparts Distrib. Ctr., Inc. v. Auto. Wholesaler's Ass'n of New Eng., 37 F.3d 12, 19 (1st Cir. 1994) (same), *with* Ford v. Schering-Plough Corp., 145 F.3d 601, 614 (3d Cir. 1998) (finding that intangible places are not public accommodations), *and* Stoutenborough v. Nat'l Football League, Inc., 59 F.3d 580, 583 (6th Cir. 1995) (same).

commodations like "auditorium," "bakery," and "food bank," several courts broadly interpreted the definition.[21] The Title, however, does not define the term "place," thus the circuit courts are divided on the ADA's scope.[22]

B. The Factual Background and Procedural Posture of Gil

Juan Carlos Gil, who is visually impaired, visited Winn-Dixie's website to use its virtual prescription refill service.[23] The website also offered tools to connect coupons to rewards cards and to locate stores; otherwise, its features were minimal, and it supported no sales.[24] The website, however, could not accommodate Gil's screen reader, preventing his use of its services.[25]

In 2016, Gil filed suit against Winn-Dixie in the U.S. District Court for the Southern District of Florida, alleging that the website's incompatibility with screen reader software violated Title III of the ADA.[26] Gil argued that the Winn-Dixie website qualified as a public accommodation, but also alleged that it had a nexus to the grocery stores and pharmacies.[27] Gil thus argued that irre-

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[21] *See* 42 U.S.C. § 12181(7)(D), (E), (K) (including language to cover "other place[s]" of communal gathering in the provided definition explaining "public accommodation"); *see also Carparts*, 37 F.3d at 19 (stating that to exclude the many companies that engage in commerce indirectly, whether by post or phone call, would contradict the ADA's goals).

[22] *See* 42 U.S.C. § 12182(a) (classifying a public accommodation as a "place," but providing no definition for "place" itself); Shani Else, *Courts Must Welcome the Reality of the Modern World: Cyberspace Is a Place Under Title III of the Americans with Disabilities Act*, 65 WASH. & LEE L. REV. 1121, 1136 (2008) (expressing that varying analyses of Title III's vague language led to the circuit split regarding non-physical places). The Department of Justice (DOJ) has further explained the meaning of "public accommodation" in fulfilling its duty to implement the ADA, yet, like Congress, declined to define the term "place" other than to describe "place of public accommodation" as a "facility." 28 C.F.R. § 36.104 (2016).

[23] Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1271 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021). Winn-Dixie, a grocery store chain, offered complete pharmacy services in its physical stores, which Gil occasionally used during his fifteen years as a patron; the service available online, however, would have allowed Gil to initiate prescription refills from home, obviating the need to enlist Winn-Dixie associates to help him reach the pharmacy where he then requested his refills with less privacy than at home, and waited up to thirty minutes for his prescription to be filled. *Id.* at 1272.

[24] *Id.* at 1270 & n.2, 1279.

[25] *Id.* at 1270. Screen reader software programs (often called "screen readers") make websites accessible for visually disabled users by vocalizing the screen text or converting it to braille on a display device. *See Screen Readers*, AM. FOUND. FOR THE BLIND, https://www.afb.org/blindness-and-low-vision/using-technology/assistive-technology-products/screen-readers [https://perma.cc/YHP6-GLYR] (explaining the purpose and functionality of screen readers).

[26] *Gil*, 993 F.3d at 1271.

[27] *Id.*; *see Nexus*, BLACK'S LAW DICTIONARY, *supra* note 15 (defining nexus as "a connection or link, often a causal one"). The "nexus" standard in the context of Title III was broadly introduced in *Pappas v. Bethesda Hospital Ass'n*. *See* 861 F. Supp. 616, 620 (S.D. Ohio 1994) (explaining that a nexus, or connection, must exist between the harm asserted by the plaintiff and the place of public accommodation). In 2006, in *National Federation for the Blind v. Target Corp.*, the court expanded the theory's application, noting that, congruent with the ADA's text, the nexus standard is not restricted to complaints in which the plaintiff alleges that he was denied actual entry to a physical place. 452 F. Supp. 2d 946, 953–54 (N.D. Cal. 2006). Although it adhered to the Ninth Circuit's holding that

spective of the website's status as a "place," it so directly related to Winn-Dixie's physical locations that its inaccessibility deprived him of "full and equal enjoyment" of the company's goods and services.[28] Winn-Dixie denied that their website, on its own or through a nexus, violated the Act.[29] Thus, after discovery, Winn-Dixie moved for judgment on the pleadings, which the district court denied.[30] The district court ruled for Gil, finding that Winn-Dixie's website violated Title III because of its heavy integration with its stores.[31] Winn-Dixie appealed the decision to the U.S. Court of Appeals for the Eleventh Circuit.[32]

The Eleventh Circuit vacated the district court's verdict, declining to adopt the "nexus" standard and finding that the district court had misapplied the "intangible barriers" precedent from *Rendon v. Valleycrest Productions*.[33] The court held that Winn-Dixie's website, providing no sales or auxiliary aids, presented no intangible barrier resulting in discrimination against Gil.[34] Using a rigid textual interpretation of Title III, the Eleventh Circuit also held public accommodations do not include websites, widening the circuit split.[35]

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websites are not places of public accommodation, the *Target* court nevertheless held that websites demonstrably connected to a related physical location are covered under Title III by the nexus theory. *Id.* at 956; *see also* Gil v. Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340, 1348 (S.D. Fla. 2017), *vacated as moot*, 993 F.3d 1266 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (acknowledging that a website that largely works with, or as a doorway to, the public accommodation is covered by the ADA as an extension of that physical location). *But see* Kessling, *supra* note 20 at 995–96 (suggesting that the logic of the nexus test contributes to "absurd results" and unclear legal guidance that can undermine compliance and perpetuate disability discrimination).

[28] *Gil*, 993 F.3d at 1271; 42 U.S.C. § 12182(a).

[29] *Gil*, 993 F.3d at 1271.

[30] *Id.*

[31] *Gil*, 257 F. Supp. 3d at 1348–49. The district court interpreted the "intangible barriers" precedent from the Eleventh Circuit's decision in *Rendon v. Valleycrest Productions* as analogous to the nexus standard. *Id.*; *see also* Rendon v. Valleycrest Prods., 294 F.3d 1279, 1283, 1286 (11th Cir. 2002) (holding that "discriminatory screening mechanism[s]" that did not occur at a physical location were "intangible barriers" that deprived the plaintiffs of a good or service of that physical location).

[32] *Gil*, 993 F.3d at 1273.

[33] *See id.* at 1278–81, 1284 (explaining that Winn-Dixie's minimalist website was "unlike the intangible barrier asserted in *Rendon*" and, accordingly, that Gil wrongly argued that the *Rendon* precedent approximated the nexus theory). In *Rendon*, the plaintiffs (all persons with disabilities) were unable to use a telephone hotline for a chance to appear on the television game show "Who Wants To Be A Millionaire." 294 F.3d at 1280–81. Significantly, the court in *Gil* noted that the hotline was the only method for accessing the privilege to compete for an appearance, and therefore found it to be an "intangible barrier" to the game show, i.e., the place of public accommodation. 993 F.3d at 1279.

[34] *Gil*, 933 F.3d at 1280, 1283. The Eleventh Circuit clarified that *Rendon* did not establish a nexus standard and explained further that the Ninth Circuit's explicit nexus standard in *Robles v. Domino's Pizza, LLC* was distinguishable because the Winn-Dixie website, unlike the Domino's Pizza website, provided no sales or necessary services. *Id.* at 1283; *see also* Robles v. Domino's Pizza, LLC, 913 F.3d 898, 905 (9th Cir.), *cert. denied*, 140 S. Ct. 122 (2019) (stating that the defendant's inaccessible website hindered access to the restaurant's accommodations making the nexus central to the court's finding that the ADA covers the website).

[35] *See Gil*, 993 F.3d at 1276–77 (stating that Title III's text requires no more than a simple analysis of its "plain language"); *see* Alison Frankel, *11th Circuit's* Winn-Dixie *Ruling Deepens Confusion*

On December 28, 2021, the Eleventh Circuit vacated its opinion as moot because the district court's injunction expired during the appeal.[36] The court ordered the district court to dismiss its judgment, as well, leaving Eleventh Circuit courts with no authority as to whether websites are places of public accommodation.[37] Regardless, the Eleventh Circuit's reasoning in *Gil* remains valuable in examining the website accessibility circuit split by showing how the court is likely to hold when a similar case comes before it.[38]

II. COURTS DISAGREE ON WHETHER TITLE III APPLIES TO NON-PHYSICAL PLACES, INCLUDING WEBSITES

Under Title III of the ADA, places of public accommodation must prevent discrimination against disabled persons by providing equal access to goods and services.[39] Because Title III fails to define the term "place," courts are divided on whether a non-physical place is a public accommodation and, thus, whether federal law protects against discrimination in these intangible locations.[40] Websites, in particular, inspire different interpretations across the circuits; some courts hold that Title III fully applies to websites while others hold that websites are covered only if they have a nexus with a physical location.[41] The U.S. Court of Appeals for the Eleventh Circuit adopted a narrower approach,

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on ADA and Digital Access, REUTERS: ON THE CASE (Apr. 8, 2021), https://www.reuters.com/article/us-otc-ada/11th-circuits-winn-dixie-ruling-deepens-confusion-on-ada-and-digital-access-idUSKBN2BV2UU [https://perma.cc/L7C7-L84R] (commenting that the Eleventh Circuit used rigid textualism in its holding, sharpening the divide among the circuit courts).

[36] Gil v. Winn-Dixie Stores, Inc., 21 F.4th 775, 776 (11th Cir. 2021); *see* Gil v. Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340, 1350 (S.D. Fla. 2017), *vacated as moot*, 993 F.3d 1266 (11th Cir.), *vacated as moot*, *Gil*, 21 F.4th 775 (2021) (outlining the injunctive relief parameters, including the June 30, 2017 deadline for the parties to file the terms of their injunction agreement).

[37] *Gil*, 21 F.4th at 776.

[38] *See* Gil, 993 F.3d at 1284 (explaining that the judiciary role denies the court the right to extend the ADA's coverage to websites, particularly when the language does not support such an interpretation).

[39] 42 U.S.C. § 12182(a).

[40] *Compare* Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1277 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (determining that only "physical places" are places of public accommodation), *with* Carparts Distrib. Ctr., Inc. v. Auto. Wholesaler's Ass'n of New Eng., 37 F.3d 12, 19 (1st Cir. 1994) (stating that Title III's plain language allows public accommodations to include non-physical places).

[41] *Compare* Robles v. Domino's Pizza, LLC, 913 F.3d 898, 905 (9th Cir. 2019) (explaining that Title III applies to websites only when they connect people to the goods or services of a physical location (citing Weyer v. Twentieth Century Fox Film Corp., 198 F.3d 1104, 1114 (9th Cir. 2000))), *with* Doe v. Mut. of Omaha Ins. Co., 179 F.3d 557, 560 (7th Cir. 1999) (interpreting Title III to clearly include websites as places of public accommodation irrespective of connection with a physical location).

holding that Title III only applies if a website presents an "intangible barrier" to accessing a physical location.[42]

Section A of this Part explains the approach the minority of circuit courts adopted.[43] Section B discusses the approach the majority of circuit courts favored.[44] Section C describes the Eleventh Circuit's approach which aligns with the majority of circuit courts.[45]

A. Title III's Broad or Ambiguous Language Covers Websites

When the U.S. Courts of Appeals for the First, Second, and Seventh Circuits addressed whether Title III of the ADA covers non-physical places like websites, they held that the Act's language either plainly includes them or is ambiguous enough to warrant purposive interpretation.[46] In 1994, in *Carparts Distribution Center, Inc. v. Automotive Wholesaler's Ass'n of New England*, the First Circuit reviewed a decision regarding whether Title III applied to an allegedly discriminatory health benefit plan.[47] In reviewing the Act's language, the court held that Title III plainly did not limit places of public accommodation to physical locations.[48] Further, the court determined that, if ambiguous, "public accommodation" should be interpreted purposively to effectuate Congress's intent.[49] The First Circuit therefore rejected a narrow construction of Title III as it would frustrate Congress's intent to empower disabled Americans by excluding the many businesses that operate outside physical places, includ-

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[42] *See* Rendon v. Valleycrest Prods., Ltd., 294 F.3d 1279, 1283 (11th Cir. 2002) (concluding that non-physical places that prevent access to a physical location create an "intangible barrier" to goods and services).

[43] *See infra* notes 46–50 and accompanying text.

[44] *See infra* notes 52–59 and accompanying text.

[45] *See infra* notes 60–67 and accompanying text.

[46] *See* Pallozzi v. Allstate Life Ins. Co., 198 F.3d 28, 32 (2d Cir. 1999) (explaining that the full access and benefits Title III guarantees could not be limited to physical places); *Doe*, 179 F.3d at 559 (explaining that Title III's provisions clearly apply to physical and non-physical facilities); *Carparts*, 37 F.3d at 19 (stating that Title III's plain language does not exclude non-physical places, or, if ambiguous, expresses the purpose and policy of the Act to include non-physical places); *see also Purposive Interpretation*, BLACK'S LAW DICTIONARY, *supra* note 15 (defining purposive interpretation as construing a statute by considering the wrongs that the legislation aims to resolve).

[47] *See Carparts*, 37 F.3d at 14 (explaining that the plaintiff, diagnosed with AIDS, received a modified health benefit plan from his employer which placed a cap on benefits only for treatment of HIV- or AIDS-related ailments).

[48] *See id.* at 15, 19 (holding that Title III should not be narrowly applied because the statute's plain language does not require public accommodations to be in physical structures).

[49] *See id.* at 19 (explaining that the language, if it were ambiguous, must be interpreted alongside policy considerations and regulations to avoid "absurd" results and fulfill Congress's intended goals). When interpreting a statute, if the language is plain and clear, courts are obliged to use the plain meaning of the words to enforce the law. King v. Burwell, 576 U.S. 473, 486 (2015). If, however, the language is ambiguous and could lead to different meanings, courts should interpret the language in light of the act's purpose. *See id.* (noting that interpreting ambiguous statutory language requires analyzing the words with regard to the entire statutory plan).

ing employee-provided health benefit plans.[50] Five years after the *Carparts* decision, both the Second and the Seventh Circuits agreed that Title III plainly covered non-physical places, with the Seventh Circuit explicitly identifying websites as places of public accommodation.[51]

B. Title III Only Covers Websites When a Nexus Exists

Unlike the First, Second, and Seventh Circuits, the U.S. Courts of Appeal for the Third, Fifth, Sixth, and Ninth Circuits held that Title III's language unambiguously excludes non-physical places, including websites.[52] In 2000, in *Weyer v. Twentieth Century Fox Film Corp.*, the Ninth Circuit determined that, because Title III defines public accommodations with physical examples (such as "zoo"), any catchall phrase that Congress included alongside such examples (such as "other place of recreation") must also be physical.[53] Acknowledging decisions by the Third and Sixth Circuits, the court briefly mentioned that Title III only applies if a non-physical good or service had a nexus with a physical place of public accommodation.[54]

Years later, in 2019, in *Robles v. Domino's Pizza, LLC*, the Ninth Circuit embraced the nexus standard holding that the ADA can apply to websites.[55] Here, the plaintiff alleged that the defendant's website, which patrons regularly used to order food, violated Title III because it was incompatible with his

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[50] *Carparts*, 37 F.3d at 19–20; *see* 42 U.S.C. § 12101(b) (explaining that the ADA's purpose is, *inter alia*, to use Congress's far-reaching authority to end discrimination against people with disabilities); *see also* Daniel Sorger, Note, *Writing the Access Code: Enforcing Commercial Web Accessibility Without Regulations Under Title III of the Americans with Disabilities Act*, 59 B.C. L. REV. 1121, 1128 (2018) (stating that the *Carparts* court recognized Congress's intent that the ADA include disabled individuals in all areas of commerce, especially "major parts of the commercial economy" which include non-physical places).

[51] *See Pallozzi*, 198 F.3d at 33 (holding that Congress did not intend the language in Title III to limit its application to physical places according to the Act's purpose and to the plain meaning of its terms); *Doe*, 179 F.3d at 559 (including websites and other places "in electronic space" as examples of public accommodations).

[52] *See, e.g.*, Magee v. Coca-Cola Refreshments USA, Inc., 833 F.3d 530, 534–35 (5th Cir. 2016) (holding that Title III's language must not be expansively read beyond the terms provided, which unambiguously limit the Act to physical places).

[53] 42 U.S.C. § 12181(7)(I); *see Weyer*, 198 F.3d at 1114 (stating that the thorough list of public accommodation examples Congress provided in Title III are exclusively physical places). The court explained that because the examples are physical places, it would violate the statutory construction principle of *noscitur a sociis* to interpret the surrounding words as non-physical. *Weyer*, 198 F.3d at 1114; *Noscitur a sociis*, BLACK'S LAW DICTIONARY, *supra* note 15 (defining *noscitur a sociis* as a rule of statutory interpretation that requires an ambiguous word to be understood by those words around it).

[54] *See Weyer*, 198 F.3d at 1114–15 (concluding that for Title III to apply to a non-physical place, there must be some nexus between it and a physical location to be considered a public accommodation).

[55] *See* Robles v. Domino's Pizza, LLC, 913 F.3d 898, 905–06 (9th Cir. 2019) (holding that the ADA applies to the defendant's website because it provides access to goods or services of a public accommodation).

screen reader and thus inaccessible.[56] The Ninth Circuit cited Department of Justice (DOJ) regulations to determine that an inaccessible website could violate the ADA if it failed as a supplemental aid to a public accommodation.[57] Further, citing *Weyer*, the court stated that the ADA could apply to a website if it had a nexus with a physical place.[58] The court held that the DOJ regulation governed the website because it facilitated a service integral to the physical location's operations, which also satisfied the nexus test; the court therefore agreed that the ADA applied to the defendant's website.[59]

C. Title III Only Covers Websites if They Present Intangible Barriers

In 2021, in *Gil v. Winn-Dixie Stores, Inc.*, the Eleventh Circuit determined that only physical places are public accommodations, and refrained from adopting the Ninth Circuit's nexus theory.[60] The court distinguished *Gil* from *Robles* by comparing the cases' websites: in *Gil*, Winn-Dixie's website provided no sales, whereas the website in *Robles* featured a sales tool that patrons favored for accessing the restaurant's goods and services.[61] Further, the Eleventh Circuit declined to expand its "intangible barriers" holding from *Rendon v. Valleycrest Productions, Ltd.* because Winn-Dixie's website did not fully prevent access to Winn-Dixie stores, goods, or services, unlike the telephone

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[56] *Id.* at 902.

[57] *Id.* at 904. Congress authorized the Department of Justice (DOJ) to create regulations that effectuate Title III's provisions. 42 U.S.C. § 12186(b). Here, the Ninth Circuit cited the DOJ regulation that mandates supplemental support, as necessary, to guarantee successful communication between disabled persons and places of public accommodation. 28 C.F.R. § 36.303(c)(1) (2020). This measure enforces Title III's requirement that no disabled person be discriminated against for want of auxiliary assistance. *See* 42 U.S.C. § 12182(b)(2)(A)(iii) (demanding "auxiliary aids and services" to prevent disabled people from being turned away, separated from non-disabled people, or otherwise suffer discrimination). The court concluded that the defendant's website was subject to the DOJ requirement for "auxiliary aids and services." *Robles*, 913 F.3d at 904–05; 28 C.F.R. § 36.303(b)(2). This subsection also currently includes screen reader software among its covered services. 28 C.F.R. § 36.303(b)(2).

[58] *See Robles*, 913 F.3d at 905 (citing *Weyer*, 198 F.3d at 1113–14) (noting that the ADA can only cover non-physical places when "some connection" exists between it and a physical place of public accommodation).

[59] *Id.* The defendant readily promoted their website and its services, which were directly connected with and a popular access point to the physical location's goods; the court considered this nexus crucial in its decision. *Id.*

[60] *See* Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1277, 1283 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (holding that Title III only applies to physical locations and cannot extend to non-physical places through a nexus standard because neither the statute nor precedent support such a theory). The Eleventh Circuit also clarified that, despite Gil's claims, it had not adopted a nexus standard in *Rendon v. Valleycrest Productions, Ltd. See id.* at 1281 (citing 294 F.3d 1279, 1284 n.8 (11th Cir. 2002)) (noting that, in *Rendon*, the court only briefly acknowledged in a footnote that other circuits considered the nexus theory).

[61] *Gil*, 993 F.3d at 1283.

hotline in *Rendon* which denied the plaintiffs the only opportunity to access a physical place of public accommodation.[62]

Instead, the court restricted its approach for evaluating websites under Title III.[63] Declining to examine the ADA's legislative history, the Eleventh Circuit held that Congress clearly limited public accommodations to physical places by failing to mention any intangible places in its robust definition.[64] Although in *Rendon* the Eleventh Circuit applied Title III to non-physical places, it concluded through its narrow textualist interpretation in *Gil* that Title III should not apply to websites on their own or through a nexus.[65] When it vacated *Gil*, however, the Eleventh Circuit also withdrew its interpretation of *Rendon*'s "intangible barriers" holding, allowing a future plaintiff to argue that the *Rendon* court applied a nexus standard.[66] Although no longer good law, *Gil* presages the Eleventh Circuit's refusal to accept such a reading, and if the court hears another Title III website accessibility case, *Gil* implies that the

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[62] *See id.* at 1279–80 (noting that although the hotline in *Rendon* was the plaintiffs' only way to appear on a game show (and thus a significant barrier), Winn-Dixie's website offered only a few functions, none of which prevented access to Winn-Dixie stores, goods, or services); *Rendon*, 294 F.3d at 1286 (stating that Congress explicitly charged the ADA with removing discriminatory barriers like the telephone hotline which prevented potential contestants from their only opportunity to compete on a game show).

[63] *See Gil*, 993 F.3d at 1276 & n.12 (explaining that a simple examination of the ADA confirms its direct language and plain meaning).

[64] *See id.* (determining that the ADA's thorough definitions obviate the need to invoke legislative history). The Eleventh Circuit emphasized the ADA's robust public accommodation definition by quoting the relevant subsection in its entirety. *Id.* at 1275–76. By announcing each of Title III's twelve categories and their examples, the court demonstrated the Act's focus on physical locations and its notable absence of non-physical places, especially websites. *Id.*

[65] *See id.* at 1277, 1281 (holding that Title III does not include websites as places of public accommodation and failing to adopt a nexus theory that would allow Title III to cover websites should a nexus exist between them and physical places of public accommodation). Further championing a strict textualist construction of Title III, the Eleventh Circuit majority dismissed the dissent's conclusion that the ADA's failure to define "goods, services, privileges, or advantages" encouraged a broad interpretation of these terms. *Id.* at 1281. The majority countered that, like the absence of intangible places, Title III also fails to mention intangible privileges or advantages, and interpreting the Act to require such immeasurable benefits would defeat its statutory scheme. *Id.* at 1281–82.

[66] Gil v. Winn-Dixie Stores, Inc., 21 F.4th 775, 776 (11th Cir. 2021); *see Rendon*, 294 F.3d at 1283, 1284 n.8 (holding that Title III applies to "intangible barriers" like inaccessible telephone services when they share a nexus with physical places of public accommodation). Some scholars contend that *Rendon* did apply a nexus standard; without *Gil* to refute this, *Rendon* remains open for interpretation although *Gil* provides insight as to how the Eleventh Circuit is likely to respond should another plaintiff rely on *Rendon* as a nexus precedent. *See, e.g.*, Richard E. Moberly, *The Americans with Disabilities Act in Cyberspace: Applying the "Nexus" Approach to Private Internet Websites*, 55 MERCER L. REV. 963, 974 (2004) (claiming that *Rendon* exemplifies the nexus theory in Title III adjudication because of the explicit connection between the telephone hotline and the television studio as a place of public accommodation); *see supra* note 33(explaining the "intangible barriers" precedent from *Rendon*).

court's opinion is likely to deepen the circuit split, advancing the position of the majority of circuit courts.[67]

III. The Eleventh Circuit Erred in Considering Title III's Language Unambiguous

Because the circuit courts differ in their interpretations of "place of public accommodation" in Title III of the ADA, the statutory language is arguably ambiguous.[68] U.S. Court of Appeals for the Eleventh Circuit thus erred in stating that Title III unambiguously excludes non-physical places and should have considered Congress's purpose.[69] Although the Eleventh Circuit vacated its opinion in *Gil*, it is prudent to analyze the court's reasoning in *Gil* and argue for the court to consider the ADA's legislative history and purpose when hearing future Title III website accessibility cases.[70] Section A of this Part explains the Eleventh Circuit's strict textualism and dismissal of statutory ambiguity.[71] Section B argues that the courts should interpret the ADA purposively to fulfill Congress's intent.[72]

A. The Eleventh Circuit Erred in Disregarding Statutory Ambiguity

In 2021, in *Gil v. Winn-Dixie Stores, Inc.*, the Eleventh Circuit erred by adhering to strict textual construction of Title III of the ADA because the statute's language is ambiguous and therefore requires purposive interpretation.[73] In an elaborate and persuasive response, the dissent correctly claimed that the majority misapplied Title III and subverted Congress's broad purpose by denying that Gil's inability to access the website's tools demonstrated unequal en-

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[67] *Gil*, 21 F.4th at 776; *see Gil*, 993 F.3d at 1277 n.13 (noting that the court's decision sided the Eleventh Circuit with the majority of circuit courts that also advocated for limited textual interpretation to find that Title III is inapplicable to websites and other non-physical places).

[68] *See* King v. Burwell, 576 U.S. 473, 490 (2015) (concluding that when a portion of statutory language may be read with more than one meaning it is ambiguous); Else, *supra* note 22, at 1136 (noting that because the courts are split on whether Title III's language applies to non-physical places, the language could be open to multiple interpretations). *Compare* Doe v. Mut. of Omaha Ins. Co., 170 F.3d 557, 559 (7th Cir. 1999) (holding that Title III plainly considers non-physical places, like websites, as places of public accommodation), *with* Gil v. Winn-Dixie Stores, Inc., 993 F.3d 1266, 1277 (11th Cir.), *vacated as moot*, 21 F.4th 775 (2021) (holding that Title III's plain language limits public accommodations to physical locations).

[69] *See Gil*, 993 F.3d at 1277 & n.12 (adhering to a strict textualist interpretation of Title III and declining to consider legislative history, stating that the title's plain language was thorough enough to clearly demonstrate Congress's intent).

[70] Gil v. Winn-Dixie Stores, Inc., 21 F.4th 775, 776 (11th Cir. 2021).

[71] *See infra* notes 73–76 and accompanying text.

[72] *See infra* notes 77–82 and accompanying text.

[73] *See Gil*, 993 F.3d at 1276 & n.12 (noting that the Act's unambiguous language and comprehensive definition of "public accommodation" clearly demonstrate Congress's intent).

joyment of Winn-Dixie's services.[74] Further, the dissent thoroughly analyzed the plain meaning of many Title III terms, throwing into sharp relief the majority's perfunctory and insufficient analysis of public accommodations and its failure to properly consider the Act's purpose.[75] By skirting Congress's purpose and the circuit split, the Eleventh Circuit rejected an important opportunity to evaluate the ADA's ambiguity, particularly as websites have become integral to accessing public accommodations.[76]

B. Courts Should Interpret Title III Purposively to Fulfill Congress's Intent

With twenty-seven years of disparate decisions to consider, the Eleventh Circuit should have recognized Title III's ambiguous language when analyzing whether websites are places of public accommodation.[77] In addition to the circuit split illuminating this ambiguity, "public accommodation" arguably has no plain meaning itself and thus warrants a purposive interpretation.[78] Acknowledging

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[74] *Id.* at 1285 (Pryor, J., dissenting). The dissent explained that the majority failed to grasp the ADA's breadth and thus shortchanged the statutory language by declining to consider the many ways the Act aimed to dismantle discrimination against disabled persons. *Id.* Congress intended Title III to eliminate discrimination at places of public accommodation and to ensure equal access and enjoyment of services, goods, privileges, and other advantages made available to the non-disabled population. *See id.* at 1284–85 (stating that the broad sweep of the ADA prohibits the many ways that a disabled person might be treated disparately and/or inferiorly, including the denial of advantages like the "express" prescription refill service on Winn-Dixie's website).

[75] *Id.* at 1294. The dissent would have held that Winn-Dixie violated Title III's general rule by denying Gil the "full and equal enjoyment" of its services because of its website's inaccessibility, and, more specifically, by failing to provide necessary ancillary support to ensure his access to its services. *Id.* at 1289; *see* 42 U.S.C. § 12182(a), (b)(2)(A)(iii) (providing a general rule prohibiting discrimination, and a specific rule requiring auxiliary aids to support accessibility). Further, in its analysis, the dissent examined the plain meaning of terms like "necessary," "services," "privileges," "advantages," and even "of." *Gil*, 993 F.3d at 1290, 1293–95 (Pryor, J., dissenting). The dissent's effort to faithfully construe other terms using dictionary definitions and the Act's purpose contrasts with the majority's minimal analysis. *Compare id.* at 1293–95, *with id.* at 1276 & n.12 (majority opinion).

[76] *See Gil* at 1276–77, 1277 n.13 (stating that a simple analysis supports the textual interpretation that limits public accommodations to physical places, while briefly mentioning the minority of circuit courts that hold the opposite, without acknowledging the First Circuit's consideration of ambiguity); *see also* Sara Castellanos, *Retailers See E-Commerce Investments Pay Off Big as Coronavirus Keeps Shoppers Home*, WALL ST. J. (Aug. 19, 2020), https://www.wsj.com/articles/retailers-see-e-commerce-investments-pay-off-big-as-coronavirus-keeps-shoppers-home-11597871064 [https://perma.cc/UK54-SEC5] (reporting a spike in electronic commerce during the coronavirus pandemic with the Internet becoming the new "front door" to physical stores).

[77] *See, e.g.*, Robles v. Domino's Pizza, LLC, 913 F.3d 898, 905 (9th Cir. 2019) (holding that the ADA applies to websites when a nexus exists between it and a physical place of public accommodation); Doe v. Mut. of Omaha Ins. Co., 179 F.3d 557, 559 (7th Cir. 1999) (holding that websites are clearly public accommodations under Title III); Ford v. Schering-Plough Corp., 145 F.3d 601, 614 (3d Cir. 1998) (holding that Title III does not apply to non-physical places).

[78] *See Public Accommodation*, BLACK'S LAW DICTIONARY, *supra* note 15 (defining public accommodation as publicly providing goods or services, like "lodging, food, [or] entertainment"). This public accommodation definition is admittedly similar to section 12181(7) of Title III, in which Congress defines the categories of public accommodation; notably, however, it similarly fails to mention

ambiguity and looking to Title III's purpose would not dishonor the text but would rather allow courts to enforce the law as Congress intended, avoiding the risk of sanctioning misconceptions.[79] Further, given the ADA's broad scope, a purposive approach could constrain its application to fulfill Congress's goals rather than making them untenable.[80]

Although the Internet has helped users accomplish daily activities for years, the COVID-19 pandemic increased many Americans' reliance on the Internet to access commerce, education, religion, and other goods and services because the pandemic rendered many physical public accommodations temporarily or permanently redundant.[81] In light of this significant shift, the next court to evaluate whether websites are places of public accommodation should honor Congress's intent to end discrimination against disabled persons wherever it occurs in America.[82]

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the word "physical." *Id.*; 42. U.S.C. § 12181(7). Further, although Congress included "place" in its statutory definition, suggesting greater specificity, it failed to define the term, and the dictionary provides numerous definitions that increase the ambiguity of "place." *See* 42 U.S.C. § 12182(a) (describing public accommodations as places but failing to define how courts should interpret "place"); *Place*, MERRIAM-WEBSTER'S DICTIONARY AND THESAURUS (2006) (defining place as "physical environment" but also as "space," "spot," or "a proper or designated niche"); *see also* King v. Burwell, 576 U.S. 473, 490, 492 (2015) (explaining that when words support divergent meanings, the ambiguity must be resolved by interpreting the language within the full statutory scope).

[79] *See* Carparts Distrib. Ctr. Inc. v. Auto. Wholesaler's Ass'n of New Eng., 37 F.3d 12, 19 (1st Cir. 1994) (noting that ambiguous language read in light of regulations and policy considerations leads to a statutory interpretation that fulfills Congress's intent); *Gil*, 933 F.3d at 1276 n.12 (indicating that if the language is clear, it is as Congress intended, and any mistake in the language must be resolved by Congress and not the courts (citing 507 U.S. 511, 528 (1993) (Scalia, J., concurring))).

[80] *See* VALERIE C. BRANNON, CONG. RSCH. SERV., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS, AND TRENDS 13 (2018) (stating that purposive interpretation aims to serve Congress's goal, fitting the language to the problem Congress aimed to address with the statute, thus limiting the reach of the language).

[81] *See The Internet and Daily Life*, PEW RSCH. CTR. (Aug. 11, 2004), https://www.pewresearch.org/internet/2004/08/11/the-internet-and-daily-life/ [https://perma.cc/N6VZ-QSTF] (indicating that, as early as 2004, the vast majority of Americans who access the Internet use it for daily activities like communication and research); COLLEEN MCCLAIN, EMILY A. VOGELS, ANDREW PERRIN, STELLA SECHOPOULOS & LEE RAINIE, THE INTERNET AND THE PANDEMIC 3 (2021) (stating that an increasing number of Americans considered the Internet essential to their daily lives during the COVID-19 pandemic); Heather Kelly, *Small Businesses Turned to Technology to Survive the Pandemic. But It May Not Be Enough.*, WASH. POST (June 22, 2020), https://www.washingtonpost.com/technology/2020/06/22/small-business-tech-pandemic/ [https://perma.cc/R79L-SPRS] (noting that the pandemic pushed businesses to shift to online services and sales to continue operating and engaging with customers).

[82] *See* 42 U.S.C. § 12101(b)(1)–(4) (noting that Congress intended the ADA to clearly and broadly enforce constitutional rights to end everyday discrimination against people with disabilities); ROBERT A. KATZMANN, JUDGING STATUTES 35 (2014) (noting that avoiding purposive interpretation leaves courts to analyze statutes divorced from the circumstances they attempt to improve).

Conclusion

In 2021, in *Gil v. Winn-Dixie Stores, Inc.*, the U.S. Court of Appeals for the Eleventh Circuit deepened a circuit split when it held that websites are not places of public accommodation under Title III of the ADA, joining the majority of circuit courts. The minority of circuit courts disagreed, holding that Title III does apply to websites and other non-physical places. The Eleventh Circuit erred by disregarding the ambiguity inherent in the split, failing to consider Congress's purpose, and applying a strict and perfunctory textual interpretation. The Eleventh Circuit should have recognized the Act's statutory ambiguity and considered Congress's purpose to faithfully interpret the statute; with *Gil* vacated, the court should purposively interpret Title III if it hears a similar Title III website accessibility case. Future courts evaluating whether websites are places of public accommodation under Title III should follow the minority of circuit courts, acknowledging its ambiguity and interpreting the Act in light of its purpose. Doing so allows the courts to enforce the ADA as Congress intended and contribute to the elimination of discrimination against people with disabilities.

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