

RiskWatch Bulletin

Wednesday June 1, 2016

DIVISION OF
RISK MANAGEMENT

Issue 16-01

Dear Higher Ed Risk Coordinators,

I want to give you a heads up about the possibility of future class actions against your institutions if your websites/online applications are not ADA-accessible. See the letter from Beth Carmichael, Director of Compliance & Risk Management for Five Colleges Incorporated, below:

Dear Colleagues:

A Pittsburgh law firm, Carson Lynch, is using aggressive, if not blackmail, techniques, sending notice letters to businesses, including colleges and universities, that they will include the institution in a class action ADA EIT claim unless the institution pays them and pledges to use them as defense if/when they might be sued for non-compliance by a different third party. Has your institution received such a letter, and if so, can you share your institution's response?

Carson Lynch is going through the states in alphabetical order, so we should all anticipate getting such a letter. They seem to be at the letter K (Kansas) right now. Most institutions are either telling them to pound salt or simply ignoring them.

Here is some news about the letters.

<http://chrishofstader.com/stopping-the-ada-trolls-carsonlynch-should-sue-itself/> (This writer urges action to stop Carson Lynch with strategies for doing so.)

<http://accessdefense.com/?tag=carson-lynch>

http://www.duanemorris.com/alerts/ada_website_cases_filed_federal_court_pittsburgh_more_likely_to_follow_0815.html

A google search of "Carson Lynch ADA" will turn up a lot of results.

This stems out of an OCR settlement with the 2014 University of Montana (see definitions!) and similar settlements with other institutions that have followed.

You may share this with other concerned parties on your campus.

Best regards, Beth

We strongly encourage you to evaluate the accessibility of your web-based applications and create a viable transition plan as soon as possible. Being sued for web inaccessibility would likely be a very expensive proposition, because the suit would possibly seek injunctive relief (asking the court to order your college or university to make its web-based applications accessible), and Risk Management's insurance does not cover claims for injunctive relief. Consequently, your institution would be responsible for all of the costs related to your legal defense and the expenses incurred to make your applications accessible.



Tani Pack Downing, State Risk Manager

Trending Risks & Pending Concerns