PATRICK LOFTUS: Welcome, everyone, and thank you for joining us today. I'm Patrick Loftus from 3Play Media, and I'll be moderating today. And today we're very lucky to be joined once again by one of the architects of the ADA and principal at Powers Pyles Sutter and Verville, Bobby Silverstein. And with that, I'll go ahead and hand it off to Bobby, who has a great presentation prepared for you all.

**BOBBY SILVERSTEIN:** Thanks. Next slide, please, Patrick. Next slide.

All right. Again, my name is Bobby Silverstein. I am principal in the law firm of Powers Pyles Sutter and Verville in Washington, DC. For over a decade I served as staff director and chief counsel to the Senate Subcommittee on Disability Policy and had the incredible privilege and honor of working on the Americans with Disabilities Act for Senator Harkin, who was the chief sponsor of the ADA.

Since then I have spent most of my time looking at public policy issues from a disability perspective, particularly trying to identify best promising and emerging practices for companies, for employers, and others.

Currently I am working with the Partnership on Employment and Accessible Technology for PEAT. Next slide. PEAT is a nonprofit that is receiving funding from the Office of Disability Employment Policy in the Department of Labor. And they provide technical assistance and resources to employers regarding accessible information and communication technology. The resources that they provide are described and links are provided on page 30 and 31 of this presentation. Next slide, please.

I'm sure you've seen these disclaimers before, but I just want to make it clear that this presentation reflects my views and does not necessarily represent the views of the Department of Labor, the PEAT project, or any other federal agency or organization. And this presentation is not meant to provide legal advice. You will see later that there are various interpretations. You need to consult with your attorney with respect to the best course of action for you all to pursue.

In my presentation, I'm going to do a quick overview of the ADA in general, look at the ADA and accessible technology in particular, look at a number of DOJ, Department of Justice settlement agreements, and then run through, walk through, a number of recent court cases. Next slide, please.

Terms of the structure of ADA, we know that Title I of the ADA deals with employment

discrimination. Title II, state and local governments. Title III relates to public accommodations. There is a Title IV, and that deals with telecommunication and relay systems. In general, what we're dealing with is protecting qualified individuals with disabilities from discrimination. And the generic definition applying for all three titles, basically, is a person with a disability who, with or without an accommodation, meets the essential eligibility requirements. Next slide, please.

When we talk about discrimination on the basis of disability, we need to look at the definition of disability. Since July 26 of 1990, we have had the same definition of disability. However, in 2008 it was clarified because of a trilogy of Supreme Court decisions that had narrowed the definition.

So we still have the same definition, three prongs. A physical or mental impairment that substantially limits one or more major life activities. Prong two, a history or record of such an impairment. Or prong three, being regarded as having such an impairment.

Now what's important in terms of the ADA Amendments Act of 2008 is that basically Congress said that the definition of disability should be broadly construed. And what that means is that one should not be focusing great attention on whether or not a person had a disability under one of the three prongs, but rather whether discrimination had actually occurred. Next slide, please.

We're going to focus on this presentation on Title III, public accommodations. The statute defines a public accommodation as a private entity that is considered a public accommodation if its operations affect commerce and the entity falls within one of 12 enumerated categories, such as an attorney's office, a hospital, a school. The regulations explain that a public accommodation means a private entity that owns, leases, or operates a place of public accommodation. Next slide, please.

Now this is, without a question of a doubt, the most important slide of my presentation. And I will go over this slowly and make reference back to it multiple times because this is the discrimination-- what we mean by discrimination under Title III of the ADA. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of goods and services, facilities, privileges, and advantages of any place of public accommodation by a private entity who owns, leases, or operates a place of public accommodation. Discriminated against on the basis of disability in the full and equal enjoyment of one, goods and services,

two, facilities, three, privileges and advantages.

And when we talk about discrimination, it includes four key constructs or concepts. First, a public accommodation cannot contract or make arrangements with another entity that has a discriminatory effect. So if you're a company and you contract with somebody to construct your website, you, as the company, are still required and held accountable under Title III of the ADA to make sure that the contractor does not discriminate.

The second is criteria or methods of administration. So if you adopt a method of administration that has a discriminatory effect, that is a violation of Title III. So if you decide to communicate your goods and services to the general public in a certain way, you choose the way. ADA does not say how you do it, but if you choose to do something, i.e., adopt a method of administration, testing, feedback, a policy, a strategy, that strategy, that policy, that method of administration has to be accessible for all, including people with disabilities.

The third construct is that equal opportunity means more than the same. It has to be effective and meaningful. So if you choose a strategy for communication, it must be effective and meaningful for people with disabilities, and that may include the provision of reasonable modifications or reasonable accommodations.

These words on this page, again, I'm going to go back to multiple times because this is the key to the ADA. Next slide, please.

There are recognized affirmative defenses. And what that means is we do not consider something discrimination if the public accommodation can demonstrate either an undue hardship, which is a significant expense, or fundamental alteration-- that is, that by complying, you are changing the essential elements of the goods or services that you're otherwise providing. Next slide, please.

So how has the ADA specifically dealt with accessible technology? Now in 1990, the internet did not exist. Because in 1990 is when Congress enacted the ADA. However, in report language accompanying the ADA, Congress explicitly stated that the concept of discrimination, which we just discussed on the previous page, quote, "should keep pace with rapidly changing technology of the times." So there was a recognition that the construct of discrimination should evolve as technology is developed.

Now a representative from the Department of Justice, a number of years ago, in testimony

before the House Judiciary Committee, made two important statements. The first is that access to the internet is becoming the gateway civil rights issue for people with disabilities. And the second thing he said was that it would be a travesty if companies and other covered entities do not address this digital-- if they basically do not address access to the internet. And we cannot have a digital divide. Next slide.

Now the ADA and implementing regulations currently ensure access to websites' online systems, mobile apps, and other forms of information and communication technology, or ICT, through general statements of policy. First, effective and meaningful opportunity to access information and data that is enjoyed by others must be enjoyed by people with disabilities. The effective and meaningful opportunity is included in the regs.

The methods of administration that I made reference to on page 7 must facilitate access, including access to goods and services through the means adopted by the covered entity. Nothing in the ADA requires the use of websites, but if websites are included to communicate to the general public, then the communication must be effective and meaningful for people with disabilities. And access to the website is the digital equivalent to ensuring access to facilities. Next slide, please.

Now for those of you who follow the ADA closely, you will recall that in 2010 the Department of Justice issued a notice of proposed rulemaking to actually ask questions as to whether or not and how they should revise the ADA regs to specifically include standards of nondiscrimination in terms of accessible ICT, instead of having the general statements of policy to actually include specific standards of what constitutes accessible ICT.

And in 2016, they issued a supplemental notice of proposed rulemaking asking an additional set of questions. Now very recently, the Trump Administration has placed these regulations on what's called the inactive status list. So the question of if or when there will be specific regs dealing with accessible technology has been put on the inactive list. Next slide.

Now what I'm going to do for the rest of these presentations is describe some of the DOJ settlement agreements and what the content of them is, and then walk through a number of recent court cases. Next slide.

The Department of Justice has entered into 171 settlement agreements with state and local governments and public accommodations that specifically deal with the issue of accessibility of information and communication technology. These settlement agreements deal with issues

ranging from accessible websites to online systems, online courses, mobile apps, and other forms of information and communication technology.

These settlement agreements also, every one of them, articulate a specific standard that constitutes compliance. And this is the Web Content Accessibility Guidelines, WCAG 2.0 Success Criteria A and AA. These are standards that are recognized internationally, and they are now the standards used under Section 508 of the Rehabilitation Act, which requires the procurement and use of accessible ICT by federal government agencies. So WCAG 2.0 A and AA are the standards of accessibility that are recognized in each and every one of these settlement agreements. The next slide, please.

I made reference earlier to the methods of administration and the failure to adopt methods of administration, or adopting methods of administration that have a discriminatory effect, is a violation. Well, there is a section in each and every one of these settlement agreements that articulate what is expected of the covered entity. The first is that there will be a policy adopted by the entity, and that policy will be distributed to folks within the covered entity, whether it's a public accommodation of a state or local government, college, university business, whatever.

Secondly, that there will be an evaluation policy, a testing policy, a policy for getting feedback on how the ICT access is actually working for folks. There will be specific procurement contract provisions dealing with accessible ICT, both in terms of the solicitation of possible contractors as well as the actual agreements. There'll be training and guidance, and there will be a designation of a responsible individual or entity, and in many cases, the description of which consultants you are-- you being the covered entity-- are in fact using. Next slide, please.

Now the Winn-Dixie case. Why are we focusing, and why is the Winn-Dixie decision in the title of this presentation? Well, in June of 2017, if you look at some of the trade press, you have headlines like the following. First Federal Court Rules that Having an Inaccessible Website Violates Title III of the ADA. *The Miami Herald* in August of 2017. South Florida Businesses Get Ready for a Wave of Website Accessibility Lawsuits.

So what has happened is that the press, the trade press and the general press, has recognized that there is, for the first time, a non-jury trial decision with respect to the ADA and accessible ICT.

So let me give you a little bit of background about the Winn-Dixie decision. Many of you know Winn-Dixie owns grocery stores, and some of these grocery stores have pharmacies. The

facts, as described by the court, explain that Winn-Dixie has a website that is heavily integrated with its physical store locations, and the website operates as a gateway to one, store locations, allowing customers, via the internet, to refill prescriptions, to find store locations, and access digital coupons that customers can use. The court also found that the website was inaccessible. Next slide.

The issue that the court presented was, is the website subject to ADA as a service of a public accommodation, and whether the plaintiff was denied equal enjoyment of Winn-Dixie's goods and services, and whether the requested modifications were reasonable. Next slide.

Now the Department of Justice recognized the importance of this particular case and filed what is called a Statement of Interest. And I'm summarizing in a sentence what the Department of Justice said in a 10-page document or so.

DOJ explained that under the plain language of the statute and regulations, discrimination applies to the provision of goods and services of-- that's a key phrase-- of a place of public accommodation, rather than being limited to those goods and services provided at or in a place of public accommodation. And the goods and services provided by a website, or offsite via telephone, or in the store are all covered by the Title III of the ADA-- not just, again, the place, the physical space, but also the website and the off-site telephone or mail. Next slide, please.

Now the department recognized in its Statement of Interest that there is a split in the Court of Appeals as to the scope of the ADA in terms of public accommodation. The DOJ reported that the First, Second, and Seventh Circuit Courts of Appeals have concluded that Title III does not limit places of public accommodations to physical spaces. In other words, Title III of the ADA covers websites. If an entity has a website available to the public, it must be accessible to and usable by people with disabilities.

Other folks who have looked at the ADA add the Fifth Circuit to that list. DOJ only said First, Second, and Seventh Circuit. Others have said the Fifth Circuit also has that policy. DOJ reports that the Third, Sixth, and Ninth Circuits have concluded that websites must be accessible if there is a nexus between the website and the physical space. That's a more limited interpretation of whether or not the extent to which an entity, a business, must make its websites accessible. Next slide, please.

So in June of 2017 the court rendered its decision. And the court said that in this particular case, it didn't have to decide that issue of whether or not there is a nexus or not because in this case there clearly was. And the ADA does not merely require physical access to a place of public accommodation. Rather, the ADA requires the provision of full and equal enjoyment of goods, services, facilities, privileges of any place of public accommodation. And the remedy measure that they used was, not surprisingly, the same measure that is used by the DOJ in its settlement agreements and the access board in the Section 508 regs-- that is, WCAG 2.0 guidelines.

Now I want to take a minute and see, Patrick, if you can help me. I want you to go back to slide seven for a second and then we're going to go to slide 21.

**PATRICK LOFTUS:** Slide eight. Your system's different than mine. Sorry, slide eight.

**BOBBY SILVERSTEIN:** And thank you. And so when I said that this slide is the critical one, I think I may have said slide seven. It's slide eight. Let's read again what's the statute and regs say about discrimination under Title III. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of goods and services, facilities, privileges, and advantages.

So it's not just facilities. It's goods and services. However it is that they provide to the general public, provide the same effective and meaningful opportunity for people with disabilities. Whatever privileges and advantages you provide to the general public, you must provide effective and meaningful opportunity to have opportunity to benefit from those privileges and advantages if you're a person with disabilities. Go, please, to slide 21.

Another decision that came down in June of this year dealt with Hobby Lobby. And this was a California decision where the court denied the company's motion to dismiss plaintiff's complaint. And Hobby Lobby operates department stores in California and other states. They have a website. By using their website, you can purchase array of products, some of which are available in the Hobby Lobby stores, some of which are just available on the website. Next slide.

In addition, by using the website, you can search store locations, view pricing offers, promotional coupons, and purchase gift cards. Plaintiff alleged the website was inaccessible. And the court accepted Department of Justice position, in their settlement agreements and

other statements, that Title III applies to websites of private entities that meet the definition of public accommodation based on general prohibitions of discrimination and requirements ensuring effective communication.

Again, what the court is saying is OK, the regs don't say WCAG 2.0, but they do say you have to have effective and meaningful opportunity. They say you have to have effective communication. They say you have to have nondiscriminatory methods of administration. So if you communicate through websites, make your websites accessible. If you communicate through ads in the newspaper, say, in other words, effective communication for all, not just including people with disabilities. Next slide, please.

And the court then says, for over 20 years DOJ has consistently maintained that the ADA applies to private websites that meet the definition of public accommodation. And therefore the court found that Hobby Lobby has more than a sufficient notice, over this 20-year period, to determine that its website must comply with the ADA. Next slide, please.

Now in March of 2017, you have a totally different approach by a court. In this case, the court granted the company's motion to dismiss the case without prejudice, meaning that they could refile at a later date. This court concluded that little or no deference is owed to the Department of Justice and its statements through documents filed in court litigation, including statements regarding its longstanding positions and settlement agreements. So this court said no deference to these statements by DOJ, no deference to the settlement agreements. Slide 25, please.

And then the court went on to say that Congress has vested the Attorney General with the authority to promulgate regs. And those regs can clarify specifically what constitutes compliance with Title III with respect to accessible websites, online systems, other forms of ICT. And the court called on Congress and the Attorney General and DOJ to take action to set minimum web accessibility standards, specific standards rather than general requirements. Next slide, please.

And so if we go back, in terms of summarize, then, for a second, if you can go back, so what the court said in Domino Pizza is contrary to what other courts have said. And in fact, you can go so far as to say what my personal feeling is, having worked on the ADA.

And that is, the general statements of policy of nondiscrimination, which means ensuring effective and meaningful opportunity, adopting methods of administration that don't

discriminate that mean if a company decides to do x, i.e., use a website, then all of the general public, including people with disabilities, must have effective and meaningful access. And the standard that is out there-- we'll call it a safe harbor, if it's not explicit, it would be implicit-- is WCAG 2.0.

This court said, we're dismissing without prejudice. And we expect that at some point in time DOJ will have specific standards. And until then, we're not ready to hold that websites must be accessible. Next slide.

I'm sorry, let's go back to Sea World. Sea World, a magistrate in Florida in January held that the plaintiff may not claim a violation of Title III based on the internet accessibility because they said that the website was not a physical or public accommodation under the ADA. They didn't look at the nexus issue. They didn't look at what other courts have said, that it's just a form of effective and meaningful opportunity. This magistrate found that it did not cover it. And it should be noted that there was no plaintiff's attorney in this case. The plaintiff, the individual with the disability, did what's called pro se. He filed this case on his own without the help of an attorney. Next slide, please.

Again, another case. This was February. And the other cases that I shared with you were June. This one was February. Another court dismissed a case involving website accessibility, again without prejudice. And in this case, the defendant was an owner of a high end audio and audiovisual equipment store. Next slide.

The defendant's web site allows customers to identify locations, browse and search for brand merchandise, research information about installation services, make private appointments at brick and mortar retail. The court recognized the applicability, in this case, of the nexus approach. However, in this case, the plaintiff only alleged that he only wanted the opportunity to shop from his home like other members of the public. Next slide.

Based on the allegation that he only wanted to shop not in the store but online, the court found that the plaintiff never intended to utilize the company's physical location. And because the plaintiff did not allege that the company's website impeded his personal use of retail locations, his ADA claim should be dismissed, again, without prejudice.

The ADA, the court said, does not require places of public accommodations to create full-service websites for persons with disabilities. Next slide.

I am not your attorney. You have to discuss issues of web accessibility with your attorneys. I'm a policy wonk. I'm a policy guy. I'm a person who was there when we passed the ADA. All I can do is share with you what Congress intended when they passed the ADA. They intended that there would be changes in technology, and Congress would establish general statements of policy with respect to what does constitute discrimination on the basis of disability.

Discrimination means if you decide to do something for the general public, the general public includes people with disabilities. And whatever you do that is effective and meaningful the general public should be effective and meaningfully available for people with disabilities. If you choose to communicate through websites, or online, or mobile apps for the general public, it should be effective and meaningfully available for people with disabilities. Effective and meaningful opportunity that is as effective and meaningful as that made available or provided to others.

As the person from the Department of Justice testified, in my opinion, it would be a travesty in 2017 if anyone were left behind. There's a concept of universal design that, to me, should be the guiding principle. And that means that whenever you, a company, do something, it should be effectively and meaningfully available to the greatest number of people who have different functional needs. And to me, the safe harbor, that is, if you want to translate what is meant by effective and meaningful opportunity to communicate, look at the Web Content Accessibility Guidelines 2.0 A and AA. Next slide, please.

Now as I said at the beginning, the Partnership on Employment and Accessible Technology, PEAT, promotes the employment, retention, and career advancement of people with disabilities through the development, adoption, and promotion of accessible technology. They provide technical assistance, training, and resources. Next slide, please.

Here are hyperlinks to various PEAT resources and activities. There's PEATWorks, which is a central hub for accessible technology, news, events, tools, and resources, TalentWorks, which helps employers and human resources professionals make their erecruiting technology accessible to all job seekers, and PEAT Talks, which is a virtual speaker series showcasing organizations and individuals whose work is advancing accessible technology in the workplace. And these PEAT talks are held the third Thursday of every month at 2:00 PM.

I believe that is it. We promised that we'd go 45 minutes. I have now 45 minutes into the presentation, and we're open to Q&A.

**PATRICK LOFTUS:** Thanks, Bobby. And thank you so much for that great presentation. We're going to go ahead and start Q&A. So Bobby, the first question here is, can you cite any cases related to an employee, specific cases, an employee with ADHD receiving accommodations?

**BOBBY SILVERSTEIN:** Again, this webinar deals with accessible ICT. If you want to look at specific cases and how employers have addressed the issue, I would strongly recommending going to the Job Accommodation Network, JAN, website. And they have specific technical assistance and guides, and probably references to court cases dealing with accommodations for folks with ADHD.

**PATRICK LOFTUS:** Great. Thanks, Bobby. And just a lot of questions kind of generally of the significance of the Winn-Dixie ruling. Someone's asking, what is the correct way to describe the significance of the Winn-Dixie ruling?

**BOBBY SILVERSTEIN:** It is the first judge in a trial-- no jury, but in a judge a trial, a non-jury trial-- that made a decision. A lot of the other court cases and appellate decisions deal with motions to dismiss or motions for summary judgment, saying that this is not an issue that needs to be addressed, or does need to be addressed. So they were motions to dismiss or motions to summary judgment. This case actually went to trial.

**PATRICK LOFTUS:** Great. Thanks, Bobby. Someone's asking can you speak a bit about how these regulations might impact post-secondary educational institutions?

**BOBBY SILVERSTEIN:** Sure. Some institutions of higher education are state universities. They would be subject to Title II of the ADA. We've been talking today mostly about Title III, which was the private institutions of higher education.

I mentioned 171 settlement agreements between the Department of Justice. Well, a number of those were with institutions of higher education. There are a number of court cases that deal with institutions of higher education. I recently went to the federal Department of Education website and downloaded 11 settlement agreements between the Department of Education office for civil rights and institutions of higher education, all requiring that websites, online courses, mobile apps, and other forms of ICT that are purchased and used by these institutions of higher education be accessible to and usable by people with disabilities. And the standard used was, not surprising, WCAG 2.0 A and AA.

**PATRICK** OK. Thanks, Bobby. I think we have a related question. Are technology platforms considered a

**LOFTUS:** public accommodation under the ADA if they don't own or sell the underlying goods and services? Or must a company be actually providing the goods and services directly?

**BOBBY SILVERSTEIN:** Again, that's a great question how it's phrased, because to me, that's one of the reasons why some of these courts have come up with what I consider erroneous decisions. The platform is not the issue. In other words, the question was, is the platform a public accommodation? Another similar question is, is the website a public accommodation? That's, in my opinion, not the issue for analysis under Title III or Title II of the ADA.

The issue is, what is the method of administration used by the public entity or the public accommodation for communicating information? If the method of administration is a platform, a particular one, or a particular website designed by somebody else, you cannot adopt a method of administration that has a discriminatory effect. You cannot contract or make arrangement with somebody else if the result is discrimination.

So when you contract with somebody to provide a particular platform or develop a website, it's on you, the entity, to make sure that there is effective and meaningful opportunity for all, including people with disabilities. So the answer is the contractor who developed the platform must-- you, when you enter into a contract with them-- should include a provision that requires that the platform meets ADA Title II, Title III requirements of accessibility for people with disabilities. Does that answer your question?

**PATRICK LOFTUS:** It does for me. I hope it does for the asker.

**BOBBY SILVERSTEIN:** But it's a great question because that's the fundamental conceptual misunderstanding. It's not whether the website must be accessible as a public accommodation. It's if a public accommodation chooses to communicate and sell its goods and services or provide other privileges or advantages over the internet, you have to ensure that you have a meaningful opportunity for all, including people with disabilities.

**PATRICK LOFTUS:** Great. Thanks, Bobby. This one is a bit specific, but interesting. Someone is asking, are there legal gray areas on a nonprofit business's intent to provide an accommodation versus the actual end product?

**BOBBY SILVERSTEIN:** OK. Could you try me again on that? I'm not sure I understand the question.

**PATRICK LOFTUS:** Sure. They said, is there a legal gray area where a nonprofit business intends to provide an accommodation, and the end result is different than that intention, I think.

**BOBBY SILVERSTEIN:** Again, to me, I'm not sure I fully understand the question. But if I try to address it, the ADA requires meaningful opportunities, not results. But the opportunities must be effective and meaningful. So if you provide an accommodation that may work for Joe but doesn't work for Jane, Jane may say, that works for Joe but it doesn't work for me.

So the ultimate issue is, is it effective for the individual? It's a case by case determination based on an iterative or interactive process between the individual and the person with the disability.

**PATRICK LOFTUS:** Thanks, Bobby. I think that definitely answered their question. This one's a little bit different. Someone's asking, in your opinion, what are some of the positives or statistics about return on investment when companies do make their services compliant to the ADA? Do you have any cool success stories?

**BOBBY SILVERSTEIN:** I would think that PEAT would. So if that person would contact PEAT-- you've got three links-- I would think that they do. And in fact, not only do I think, I know that they do, because remember the concept, in my summary, of universal design. That's the-- peatworks.org is the link you could just there, or go to one of the PEAT talks. But I'm almost certain that if you go to their website, you will find that information.

But if you just think about this. If you go to previous-- I think slide 30, maybe? Universal design, the notion that if you provide-- whether it's a website or anything else that is usable by a greater number of people, you would think you would have a greater opportunity to sell your goods and services.

So that's a general answer, specific data, I think PEAT would have that.

**PATRICK LOFTUS:** Thanks, Bobby. Let's see here. The next question here is, what approaches have you tried that have worked in getting an organization to take compliance with the ADA? I'm sorry, what approaches had you tried that have worked in getting an organization to comply with the ADA a priority, in particular, leadership? Does that make sense?

**BOBBY SILVERSTEIN:** Again, peatworks.org would have specific strategies to answer that question. For me, the question, again, the short answer to that question is the notion of universal design, the notion

that if you're trying to sell a good and service, you want to reach the greatest number of people to sell your product or to sell your service. And universal design, accessible design means that you will reach the greatest number of people.

**PATRICK LOFTUS:** Thanks, Bobby. This question's a bit general. I'm not sure if it's specifically just generally about web accessibility or how Title III applies to websites. But someone's asking, do you see this issue going to the Supreme Court ultimately, given the differing viewpoints and rulings between all of the different federal courts?

**BOBBY SILVERSTEIN:** Well, the answer is yes, it may well be. And it could-- if the Department of Justice does not issue more specific standards-- WCAG 2.0 applying to public accommodations of state and local governments-- then you will have a bit of this disagreement.

Now, again, the agreement by most of the Court of Appeals, is there a nexus or not? Is there a relationship between the website and the physical facility? And yes, if there are additional clarity through the regs, it may have to be resolved at the Supreme Court.

**PATRICK LOFTUS:** Great. Thanks, Bobby. Someone is asking about how any of this applies to an organization's social media sites. Can you comment on that?

**BOBBY SILVERSTEIN:** I am not an expert on social media. But again, if a company uses-- taking the general proposition that if you use social media for purposes of advertising or selling your goods or services, then the social media platform should be accessible to and usable by everyone, including people with disabilities.

**PATRICK LOFTUS:** Thanks, Bobby. Let's see here. I think we have time for one or two more questions. This one just came in. How does any of this apply to the development of educational multimedia resources for a educational institution?

**BOBBY SILVERSTEIN:** Again, it applies directly. And there are 11 settlement agreements, many of which deal with online courses. And the Department of Justice, of the ones that I made reference to, many of them apply to online courses as well.

Now, you should know that on the peatworks.org website there is a comprehensive review of all of these settlement agreements, these 171 settlement agreements. So you can go on the peatworks.org website, you can find which settlement agreements deal with online courses, which deal with websites, what's the standards, who has to provide training or feedback. And not only do you have general, you have a specific link to the paragraph in the settlement

agreement that deals with these issues.

So online courses have specifically been addressed by multiple settlement agreements, both by DOJ and the Department of Education, and in a number of court cases as well. And all of these, again, are reference in the peatworks.org.

**PATRICK LOFTUS:** Thanks, Bobby. I think you can answer this one real quick, and this is the last question. But someone said, I believe you said the Trump Administration placed specific regulations on hold or something to that effect. Does that mean the ADA refresh that was supposed to be effective January 2018 is now on hold, or is that something else entirely?

**BOBBY SILVERSTEIN:** That's something else entirely. What you have was a specific notice of proposed rule-making deal with website accessibility that was originally issued in 2010. 2016 they did a supplemental notice, and this dealt with Title II state and local governments, not Title III websites. The original notice of proposed rule-making, 2010, that was state and local governments and public accommodations. The supplemental notice only dealt with state and local governments. In 2017, when the Department of Justice related its regulatory agenda, it listed under inactive status list the supplemental notice of proposed rule making dealing with web accessibility. So that's specifically what I was referring to.

**PATRICK LOFTUS:** Gotcha. All right. Well, that's about all the time we have for today. Bobby, thank you so much for a great presentation and a great Q&A.

**BOBBY SILVERSTEIN:** You are very welcome. Thank you for providing me with the opportunity to share.