Congress of the United States
Washington, DC 20515

June 20, 2018

The Honorable Jeff Sessions
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

Dear Attorney General Sessions:

Thank you for your service to our country. We write today to express support for the Department of Justice providing guidance and clarity with regard to website accessibility under the Americans with Disabilities Act or ADA.

Although there have been several recent court decisions on the application of the ADA, the statutory authority for applying the ADA to websites is unclear.[1] However, businesses of every shape and size throughout the country are being threatened with legal action by private plaintiffs for unsubstantiated violations of the ADA. This problem is expanding at a rapid rate since the Internet allows such actions to be filed from anywhere, and there are no restrictions or limitations on making such complaints. The absence of statutory, regulatory, or other controlling language on this issue only fuels the proliferation of these suits since there are no requirements these complaints have to meet. In fact, in most cases these suits are filed for the purpose of reaching a financial settlement and do little or nothing to improve website accessibility.

We support the original spirit and intent of the ADA. However, unresolved questions about the applicability of the ADA to websites as well as the Department's abandonment of the effort to write a rule defining website accessibility standards, has created a liability hazard that directly affects businesses in our states and the customers they serve.

It is critically important for the Department to take steps now to state publicly that private legal action under the ADA with respect to websites is unfair and violates basic due process principles in the absence of clear statutory authority and issuance by the Department of a final rule establishing website accessibility standards. We agree with the U.S. District Court for the Central

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[1] *See Carroll v. ABNB Fed. Credit Union*, No. 2:17CV521, 2018 WL 1180317, at *1 (E.D. Va. Mar. 5, 2018), *and* Robles *v. Dominos Pizza LLC*, No. CV1606599SJOSPX, 2017 WL 1330216, at *1 (C.D. Cal. Mar. 20, 2017); *but see Gil v. Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340 (S.D. Fla. 2017), and Markett v. Five Guys Enterprises LLC*, No. 17-CV-788 (KBF), 2017 WL 5054568 (S.D.N.Y. July 21, 2017).

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District of California in *Domino's Pizza v. Robles* which held that "impos[ing] on all regulated persons and entities a requirement that they 'compl[y] with the WCAG 2.0 Guidelines' without specifying a particular level of success criteria and without the DOJ offering meaningful guidance on this topic … files in the face of due process."[1] Further, as it dismissed the ADA complaint, the court said:

> The Court concludes by calling on Congress, the Attorney General, and the Department of Justice to take action to set minimum web accessibility standards for the benefit of the disabled community, those subject to Title III, and the judiciary.[2]

It is important for Congress to act to provide greater clarity through the legislative process. However, in the meantime, it is also unfair and disruptive to subject businesses to litigation risk caused by insufficiently specific statutory language or even basic direction on compliance from the Department. We respectfully urge you to help resolve this situation as soon as possible.

Thank you again for your service to this nation and we look forward to your response.

Sincerely,

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[1] *Robles v. Dominos Pizza LLC*, No. CV1606599SJOSPX, 2017 WL 1330216, at *5.
[2] *Id.* at 8.

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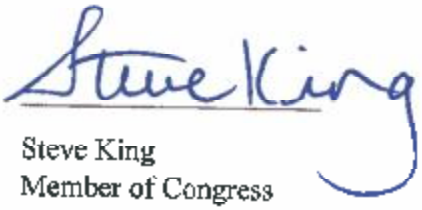

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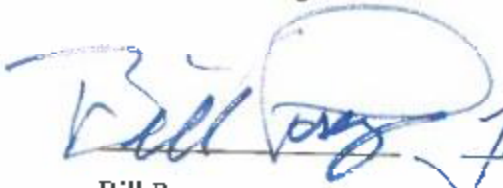

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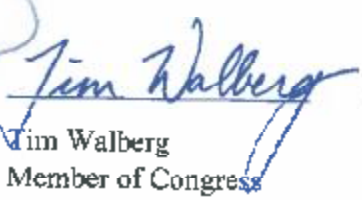

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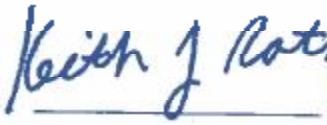

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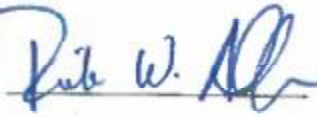

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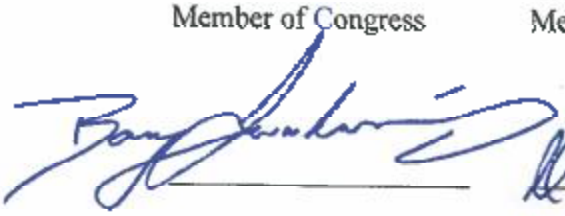

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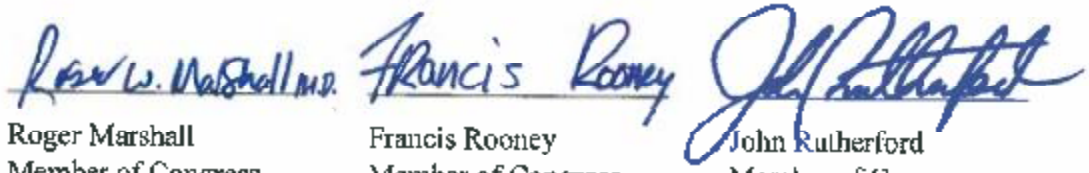

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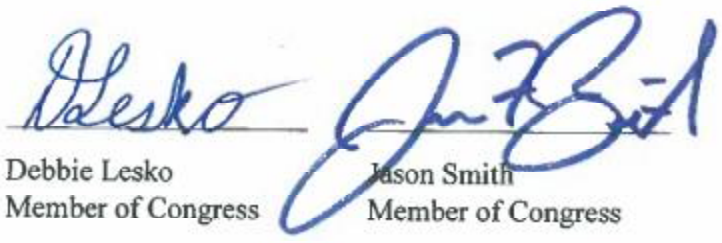

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