



Calif. Justices Set Low Bar For Website Bias Claims, Law360

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The California Supreme Court recently sent a clear message to businesses that “online discriminatory practices” will not be tolerated. In order to proceed with a lawsuit, plaintiffs need only show that they intended to use an online business’ services, and encountered allegedly discriminatory practices.

The Supreme Court’s opinion in [White v. Square Inc.](#)[1] could have far reaching impact on e-commerce, initially in California and potentially nationwide. Businesses with an online presence should review their terms of services and end-user license agreements, and consult with counsel to address any potentially “discriminatory” terms which could unnecessarily expose the business to litigation.

In a unanimous opinion prepared by Justice Goodwin Liu, the California Supreme Court held a person who visits a business’ website with an intent to use its services and encounters terms or conditions that exclude the person from full and equal access to its services has standing to sue under the Unruh Civil Rights Act. There is no further requirement that the person enter into an agreement or transaction with the business. The White court reasoned visiting a website with intent to use a business’ services is, for purpose of standing, equivalent to presenting oneself for services at a brick-and-mortar store and encountering a discriminatory practice.