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League of Southeastern Credit Unions & Affiliates amicus brief filing with credit unions in Alabama

BIRMINGHAM, Ala./TALLAHASSEE, Fla., March 28, 2018 – The League of Southeastern Credit Unions & Affiliates (LSCU) and Credit Union National Association (CUNA) filed an amicus brief supporting Naheola Credit Union Tuesday in its motion to dismiss a lawsuit in Alabama. Naheola Credit Union is facing a frivolous lawsuit alleging non-compliance with website accessibility standards under the Americans with Disabilities Act (ADA).

This is the latest of multiple briefs CUNA has filed in conjunction with state leagues in similar cases and the second case the LSCU has joined in Alabama. Last week, The Infirmary Federal Credit Union, with the support of the LSCU and CUNA, filed a motion to dismiss a baseless case regarding the ADA, *Scott v. The Infirmary CU*.

Credit unions across the country have been threatened with predatory litigation from plaintiffs' law firms seeking to profit from ambiguities in requirements for website accessibility under the Americans with Disabilities Act (ADA). While the ADA is important and necessary for the well-being of those protected by it, plaintiffs' lawyers are exploiting compliance ambiguities to the detriment of all credit union members.

“The League and CUNA have made it a priority to support our credit unions in the face of wrongful allegations such as those set forth in these frivolous lawsuits using the Americans With Disabilities Act as a pretense to make money,” said LSCU President/CEO Patrick La Pine. “We take the rights of disabled Americans seriously and we again ask the U.S. Department of Justice to set forth clear website guidelines.”

America's credit unions need to know what is required of their websites under the ADA. Currently, there is no specific guidance from the DOJ or Congress. The LSCU requests the DOJ move forward with formal or informal guidance to provide clarity on requirements.

“Credit unions are institutions built on service to our membership,” said Mark Johnson, president/CEO of Naheola Credit Union. “It is crucial that we have clear guidelines to meet ADA expectations and that the Department of Justice respond quickly so that we can continue to serve our members in every area of compliance.”

Accordingly, the DOJ should follow necessary steps to clarify the matter for all involved. Those steps include issuing a proposed rule so credit unions know what they must do to comply. In lieu of a rule, since the 2010 ANPR has been rescinded, the DOJ should issue less formal guidance, such as weighing



in on litigation with an amicus brief or issue a legal memo about the recent increase in litigation and provide additional clarity to help resolve it.

In the joint amicus brief, CUNA and the League of Southeastern Credit Unions and Affiliates support Naheola Credit Union's Motion to Dismiss based on the following claims:

- The plaintiff lacks standing to file suit against the credit union;
- A website is not a place of public accommodation;
- Applying Title III of the ADA to websites renders the statute impermissibly vague in the absence of any implementing regulations by the Department of Justice
- The court should dismiss the complaint pursuant to the Primary Jurisdiction Doctrine.

The League of Southeastern Credit Unions & Affiliates represents 245 credit unions in Alabama and Florida with a combined total of more than \$84 billion in assets and more than 7.5 million members. LSCU provides advocacy and regulatory information; education and training; cooperative initiatives (including financial education outreach); media relations and information; and business solutions. For more information, visit www.lscu.coop. Follow the League on Twitter at twitter.com/LeagueofSECUs or [Facebook](#).

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