

**TESTIMONY OF
COREY D PETERSON
BEFORE HOUSE COMMITTEE ON JUDICIARY
HB 2423**

March 2, 2023

By Corey Peterson, Hemslöjd, Inc, Lindsborg, Kansas

Mister Chairman, Vice Chair Schreiber, Ranking Minority Member Carmichael and members of the committee, my name is Corey Peterson. I am President of Hemslöjd, Inc. The Hemslöjd is an independent retail business offering Scandinavian gift items located in Lindsborg, KS. It was founded in 1984. My wife, Denise, and I have been owners since 2011. We have 5 full-time employees, an average of 14 part-time employees and usually 3 to 4 seasonal employees.

Our business features both a brick and mortar gift shop in downtown Lindsborg and a catalog/e-commerce shopping experience.

I am in support of House Bill 2423 and respectfully ask that you report it favorably for passage.

I am here today to offer you a glimpse into a situation I am facing as a small business owner in Kansas. While this is my story, I do not believe I am alone in what I'm dealing with. I hope you can provide some protections for small businesses in Kansas from future abusive litigation.

Each day, small business owners know they will wake up to many challenges, some routine, some unique, some mundane, some not so much. Personnel issues, supply chain disappointments, marketing, sales, equipment breakdowns, cash flow challenges, customer relations, and community affairs are a few examples of what we regularly expect to overcome.

Being forced to shut down for six weeks in 2020 would never have been on this list of these things keeping me up at night, but it suddenly was. We survived the pandemic, thanks largely to an award-winning new website. I thought we'd overcome the unexpected major challenge of this career, challenge of the decade anyway. However, I was wrong, as there was another silent threat lurking, one I'd face beginning in September of 2022.

It was at this time I started to receive solicitations, both at the store and at home, from law firms in New York state wanting to represent me, informing me that my company has been sued by an attorney on behalf of a person that is sight impaired, claiming damages under the auspices of Americans with Disabilities Act compliance. I first thought these slick, well-produced and printed brochures and letters were scams. As many of you know, businesses and individuals receive dozens of email and mail scams each month, and I assumed these had to be some of those.

Even with doubt about their legitimacy, the moment I realized it was not an isolated scam, I contacted my website designer. They indicated they were aware of serial lawsuits being filed and sounded shocked we were the subject of one. They indicated there was no way to design a page “in accordance with ADA” because ADA does not offer standards for which to meet. They said it was impossible to design a website that could avoid these lawsuits. My website also employs a plug-in service to make our website even more accessible. Even though this investment is costly, I now understand that even this service does not necessarily prevent these lawsuits.

At this time, I also reached out to my congressional delegation, business organizations here in Kansas and nationally, the Kansas Attorney General’s office and others. None of which could offer assistance since the suit had already been filed in the U.S. District Court for the Southern District of New York.

Solicitations from law firms and later consultants in the industry continued. I still had not been served so I still thought there must be some mistake. Months went by without service, so I thought that maybe the suit was dropped or maybe it was still some sort of sick scam.

Throughout this process, I have lost countless nights of sleep, days of work time and much faith in mankind. I have never been sued before and let me say, it is a terrible feeling. Our small business takes pride in offering positive experiences to as many people as possible. We are not a big box or internet commerce giant. We love nothing more than to speak directly with our customers. We enjoy exchanging stories of our shared Swedish heritage and have many friends across the country because of this. That is why we are in business. That is why we exist. How could we be targeted for this?

When this all started to come together, I was distraught over the fact we were not even offered the chance to assist the alleged plaintiff, nor were we ever told by anyone that our website could be a challenge for the sight-impaired. I beat myself up over this because we would have, without hesitation, helped a person on the phone or any means possible if offered the opportunity. I beat myself up, that is, until I was told by multiple experts that the lawsuit is not about our website at all, but is a tactic being used to earn settlements from virtually defenseless small business owners that operate a website.

Simple, commonsense proof of this is, if there were parties truly concerned about the sight-impaired, wouldn’t they seek some sort of remedy that would assist websites to provide what they feel is needed? Seeking settlements, never intending to go to court, only takes funds away from small business owners, funds that will therefore no longer be available for updates, if updates were ever actually needed. Seeking settlements and going away does nothing to help the issue being touted.

I am a small business owner who hopes we are doing things the right way for the right reasons. We want nothing more than to reach all of our current and future customers. In the 12 years we've owned the business, we have worked diligently to bring Swedish traditions to all those we can. We spend hours on the phone each week with our customer friends, and we love it. This lawsuit is a slap in our face, again, until I remember... "it is not about what it is about."

In the year it took to develop our completely new website (2019), the subject of having a website readable by the sight-impaired was never discussed. Hiring a national firm to do the things I have no capacity or expertise to do, we could only trust they were providing the type of design required. We believed we had a great product, confirmed by receiving a national award by the company whose platform was used.

At the time, I was worried about developing a website that reflected our image and culture. I was worried about having a favorable experience for our current and future customers. I was worried about promoting my business and town. I was worried about a design that would generate enough sales to keep our business going. By using a well-respected developer on a widely used platform, I had zero idea there may be exposure to litigation.

On January 10, 2023 I was served. Papers were dropped off with a clerk. The courier indicated to our clerk we were among six other small businesses they were delivering to that day. I immediately retained counsel and am here today in an attempt to assist fellow small business owners, while I fight this meritless case in Court.

As a small business owner, it is frightening how alone we are. We do not have the means to go to NY State to fight this in court. We don't have a national organization to come to our defense. I have insurance, including general liability and even cyber crime coverage, none of which came through with assistance. Those who are filing these lawsuits know this. We (small businesses) are merely sitting ducks on a very small pond, and unfortunately, there is no limit on the number of ducks they can shoot.

I sincerely hope you will consider HB 2423 for passage in an attempt to protect the hundreds of small businesses in Kansas with websites. This deterrent from abusive lawsuits would be a way to make Kansas a better place for businesses to operate at no cost to the taxpayer.

Thank you for your consideration.