

# Judge says blind man can sue McDonald's over drive-thru-only ordering



McDonald's may have served billions and billions, but these menu items, ranging from gimmicky to outright failures, will likely never be served again.

By **Ally Marotti**  
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**T**o the many who succumb to late-night cravings, McDonald's drive-thru can be a beacon of fast-food hope. But without a car, the dreams of indulging in that burger desire are dashed.

A blind man from Louisiana wants the fast-food giant to come up with another solution for those who physically can't drive through a drive-thru.

Scott Magee, who is blind, filed a lawsuit in May alleging that only offering service to customers in cars at drive-thru windows when the interior of the store is closed is a violation of the Americans with Disabilities Act. A federal judge in Chicago ruled Wednesday that despite McDonald's attempts to have the case dismissed, Magee can go forward with the suit, which seeks class-action status.

"Most Americans have the experience of driving through a drive-thru and ordering for themselves," said Roberto Luis Costales, the New Orleans-based lawyer representing Magee in the case. "That's an experience Mr. Magee doesn't have."

Many McDonald's locations operate only as drive-thrus late at night as a security measure. The suit says that cuts off service to disabled customers, like Magee, who don't drive.

The suit isn't asking McDonald's to allow people to start walking through drive-thrus. That's unsafe, said Costales, who also has an office in Chicago. It asks the fast-food chain to find some other way to serve customers without cars when only the drive-thru is open.

McDonald's representatives did not respond to requests for comment, and attorneys representing the company declined to comment.

A possible solution, Costales said, would be allowing people to order ahead and have an employee bring the food out to them. McDonald's could do that with its app, he said.

The company, which is planning to move its headquarters from suburban Oak Brook to Chicago's West Town neighborhood, rolled out a mobile app in 2015 and is expected to launch a mobile order-and-pay function sometime this year.

But McDonald's has been behind on its app compared with a slew of fast-food competitors. Taco Bell launched a mobile order-and-pay option in 2014. Kentucky Fried Chicken and Chick-fil-A announced mobile-pay apps last summer.

"From a corporate standpoint, they are the ultimate battleship that just takes forever to turn," said John A. Gordon, founding principal of San Diego-based chain restaurant consultant Pacific Management Consulting Group.

McDonald's is working on it, but it works with thousands of franchisees, and there are logistics to contend with surrounding mobile order-and-pay options, among other issues, Gordon said.

In the complaint, filed in U.S. District Court in Chicago, Magee called out a McDonald's near his home in Metairie, La., as well as two locations he visited in San Francisco and Oakland, Calif.

The court ruled Wednesday that Magee had standing under the Americans with Disabilities Act to sue regarding the Louisiana restaurant since he is likely to visit again. It also ruled that he could seek damages related to the two other locations under a California law.

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