

Executive Summary

Florida Lawyers with Disabilities

A Survey Report

2006 Survey of Florida Attorneys with Disabilities

Prepared by
The Disability Independence Group
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Executive Summary

Introduction

“Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.”

The Americans with Disabilities Act of 1990

It has been 43 years since the passage of the Civil Rights Act, 42 years since the passage of the Voting Rights Act, and 39 since the Fair Housing and Architectural Barriers Acts were passed. Thirty-four years ago, in 1973, the Rehabilitation Act was enacted, linking disability to the mainstream of civil rights law. In 1975, the Individuals with Disabilities Education Act became law. And then, in 1986, the Air Carriers Access Act. And it has been 17 years since the United States Congress, in 1990, passed the landmark legislation that is the Americans with Disabilities Act, to provide opportunity and access in employment, state and local government services, public accommodations, telecommunications, and transportation, both public and private.

Many positive outcomes occurred during this history. Yet still, Florida lawyers and other legal professionals with disabilities undergo a host of challenges, many on a daily basis – among them: unemployment, refusal and resistance to reasonable requests for accommodation, shortages of services, and, on whole, a surplus of skepticism that, in the final analysis, serve to preclude full participation of the disabled in their chosen profession.

In 2005, The Disability Independence Group, a private, non-profit 501 C-3 organization, conducted The Disability-Diversity Initiative, a statewide study project of 44 lawyers with disabilities to identify and discuss barriers to participation in professional and bar activities. Of the significant recommendations that developed, the Initiative signaled the need for a far more comprehensive survey to provide better documentation for the conclusions and recommendations of the Initiative.

In May 2006, the Disability Independence Group, with assistance from The Florida Bar and the Florida Bar Foundation, set course to survey Florida lawyers with disabilities. The purpose was to gather demographic information, analyze barriers for lawyers with disabilities in their profession, collect information on accommodations and technical assistance; and, ultimately, create a forum for the exploration of issues, strategies, and recommendations to enhance the

participation of attorneys with disabilities in Florida’s legal communities, in court and out of court.

The full report represents the interpretation of the survey results by the Disability Independence Group. A separate report of the survey data results, published by the Florida Bar, is referenced throughout the full report. We encourage readers to review the entire report.

Survey Design and Methodology

“Why did you decide to pursue a career that was so challenging, given your disability?”

Employer Question to Respondent

The survey questionnaire was accessible to all members of The Florida Bar who have disabilities – both on-line, via the Bar’s website, and upon request, by printed copy as well. More than 111 attorneys responded. Not all respondents answered all questions. Eighty-six were complete, finishing the sixty-nine question survey entirely. Twenty-five others completed half, making their surveys usable. A total of 111 responses were catalogued. The data was collected, coded, and categorized by The Bar’s Department of Research, Planning, and Evaluation, and the results then analyzed by the Disability Independence Group.

Participation was anonymous and all information kept confidential.

Attorneys with disabilities were asked to answer questions in ten general categories: Nature and Impact of Disability; Accessibility; Vision-related Communication Barriers to the practice of law; Hearing-related Communication Barriers; Accessible Information Technology or Equipment Barriers; Policies, Practices or Procedures Barriers; Bar Admission, Membership and Activity; Demographics of survey participants, including type of practice, years in practice, location, gender, age, race, ethnicity, and earnings; and, Opinions and Attitudes.

Throughout the survey, respondents were offered the opportunity to provide more detail, descriptive information and personal experiences. This was significant, as the survey was designed to gather confidential, anonymous and, importantly, candid comments in sensitive areas. These responses have provided rich commentary that is infused throughout this report.

In opinion questions, respondents were asked to indicate their thoughts regarding a number of recommendations which had been made by participants in the earlier Disability-Diversity Initiative, their willingness to participate in future projects and committees which would reduce barriers, and to identify areas for future research. Respondents also had the opportunity to comment on positive changes that have occurred in their professional environments in recent years.

Technically, the survey was not a pure random sample, since, to this day, there is not a viable database of Florida attorneys with disabilities to sample from. However, based upon research performed by The Florida Bar's Department of Research, Planning, and Evaluation in their 2006 Economics & Law Office Management Survey, a random sampling of Florida lawyers has measured the percentage of Bar members with disabilities. That survey was a random sample of The Florida Bar's in-state membership. It revealed that approximately 3% of Florida Bar attorneys have recognized disabilities. Considering all 80,000 Florida Bar members, it is estimated that approximately 2,400 attorneys have disabilities. The margin of error for the Survey of Lawyers with Disabilities is between 9 and 10% at the 95% level of confidence for this survey. However, the margin of error is even higher for a number of questions that had fewer responses.

Survey results need to be interpreted through dual lenses – of not being perfectly random and having a relatively small population sample by survey research standards. As such, cautious use of exact percentages of the survey results is recommended. This is especially true in the analysis of (even smaller) sub-populations, such as those attorneys with vision-related disabilities. Since a smaller percentage of those interviewed fall into such categories, responses to these questions should be viewed not as definitive but, at least for now, more as potential areas for further research.

With that said, the cumulative weight of the survey results should not be discounted. While not a perfect gauge of issues facing Florida attorneys with disabilities, the consistency of responses suggests that these are issues that affect a significant number of attorneys with disabilities.

Key Findings

“[E]mpathy [is] not a billable event. It [is] therefore in very short supply, even among those who represent the catastrophically injured. Education is the key. Teach people about disabilities. Teach people about how people overcome them. Teach people about how to accommodate them. And when you have done that, the profession will be that much better for it.”

Respondent comment

Survey results provide valuable information about the challenges which lawyers with disabilities face on a daily basis as they pursue their careers and involvement with the legal profession. The survey also provides valuable information regarding positive changes they have been experienced in the last ten years. Respondents note that the Florida Bar has become more sensitive to the needs of members who have disabilities, that courthouse accessibility has improved, and that many employers treat persons with disabilities the same as others. Significant numbers of respondents note the need and value of disability awareness training throughout the legal system in order to reduce perhaps the most systemic barriers to the profession- attitudinal misconceptions, misinformation and stereotypes.

A number of respondents stated their appreciation for the work done on this survey, by the Bar and by the Disability Independence Group as reflected in the following statement by one respondent: “(this survey)...shows sensitivity towards lawyers with disabilities. The results can only be positive for lawyers with disabilities.”

Nature of Disability and Other Demographics

List the greatest barrier concerning your employment:
 “Only the visibility of my disability.”

Respondent Comment

- ◆ The majority of respondents are 50 years of age or older (54%), with 34% from 36-49 years of age.
- ◆ The largest number (61 respondents) reported physical disabilities and sensory disabilities (39 respondents), vision and/or hearing.
- ◆ Fifty-one percent (51%) of all respondents report that their mobility is affected by their disability;
- ◆ Thirty nine percent (39 %) report sensory effects, either vision (24%) or hearing (19%) being affected.
- ◆ One-third (33%) report their physical health being affected; and,
- ◆ More than a quarter (27%) report their mental health being affected by their disability.
- ◆ Twenty-two percent report that their fine motor skills and manual dexterity are affected.
- ◆ Thirty-eight percent (38%) of all respondents report that the onset of their disability occurred while they were between 31 and 50 years of age, with eighteen percent (18%) reporting that the onset occurred at birth. Half of all respondents report that the onset of their disability occurred before they attended law school. Just over two-fifths (41%) report their disability to be visible or apparent, with an additional 19% reporting that it is sometimes apparent, depending on the circumstances.
- ◆ Nearly three-fifths (59%) of all respondents are male.
- ◆ A total of 63% of the respondents practice law in Miami-Dade, Broward, Leon, Hillsborough, Pinellas and Orange counties, with respondents from a total of 23 counties.
- ◆ A significant majority of respondents (91%) report being White/Caucasian; 6% Hispanic/Latino; and 2% African-American/Black.

- ◆ Nearly three-quarters (73 percent) of all respondents have over 10 years of experience with The Florida Bar, and over two-fifths (42 percent) have over 20 years of experience.

Employment Demographics

- ◆ Eighty-four percent report being currently employed.
- ◆ Of those employed, considerable more than half (65 percent) work in private practice, with 42 percent employed in solo practice; 17 percent work in government.
- ◆ Including those respondents who are not employed at this time, 13 percent work as associates or partner/shareholders; 4 percent work as “other” private practitioners.
- ◆ Very few of all respondents work as managing partner or of counsel (less than 1 percent).
- ◆ Five percent work in legal aid or legal services.
- ◆ Two percent work as corporate counsel.
- ◆ Nearly three-quarters (72 percent) of all respondents are employed in firms or legal offices that contain 10 or fewer attorneys.
- ◆ Nearly half (46 percent) are employed in firms or legal offices that contain five or fewer attorneys.
- ◆ When considering those respondents who reported a legal income in 2005, the median salary is \$62,000, with 74 percent earning \$100,000 or less.

Law School Experiences

Respondents reported few barriers during their law school careers. The barriers mentioned included interaction with the Law School Admissions Council (LSAC), application for the Law School Admission Test (LSAT), experiences within the law school admissions process, law school classes, library use and other activities.

Key findings include:

- ◆ One-fifth of applicable respondents experienced negative comments from law students (22%) and law school admissions staff/professors/or administrators (19%).
- ◆ Refusal or resistance to make reasonable accommodations for their disability were experienced by applicable respondents in law school classes and activities (17%); and with the LSAC/ application and the LSAT (14%).
- ◆ Physical (architectural) barriers in law school were experienced by 16% of applicable respondents with the fewest experienced in the LSAT preparation courses or LSAT;

- ◆ Hearing-related communications barriers in law school classes, library use, and other activities were experienced by 14% of applicable respondents;
- ◆ Vision-related communications barriers in law school classes, library use, and other activities were experienced by 8% of applicable respondents;
- ◆ Policies, practices or procedural barriers related to Law school classes, library use, and other activities were experienced by fifteen percent (15%) of all applicable respondents; and, thirteen percent (13 %) with the LSAC.

Board of Bar Examiners Experiences

Although three-quarters of applicable respondents report that application for admission to the Florida Bar was adequate and fair to persons with disabilities, a number of problems still persist in the Bar Examination and Bar Admission process.

- ◆ One-third of all applicable respondents believe that the documentation to obtain testing accommodations for the Bar examination and the application for admission to the Florida Bar are unfair;
- ◆ Nineteen percent (19%) of applicable respondents experienced difficulties in the accommodations process for the Bar examination; and
- ◆ Twenty-one percent (21%) of all applicable respondents reported policies, practices or procedures that created barriers in the Bar examination process.

Bar Association Experiences

Three-fifths (60%) of all respondents report that The Florida Bar has become more aware of the needs of lawyers with disabilities over the last five years, although a number of barriers continue in relation to their involvement in Bar association participation and activities.

- ◆ A large majority of respondents (70%) report that they have not attended any of the primary Florida Bar meetings in the past five years;
- ◆ Approximately one-fifth of applicable respondents reported encountering one or more barriers while participating in Bar activities;
- ◆ Cost to attend meetings or activities, accessibility of the meeting location, and disability-related time commitment are factors influencing decisions to join a voluntary bar association or a Florida Bar committee.

Employment Experiences

The vast majority of employers are ignorant as to the effect and scope of a disability with regards to job performance. Most employers think that a disability will result in sub-standard performance, when, in reality, most individuals with disabilities work harder to prove their "worth". Employers are also unaware of the distinct advantages which go along with employing the disabled.

Survey Respondent

- ◆ For those whose disability is not immediately evident, whether to disclose their disability is always challenging. Frequently, based on their experience or the experience of others, their assumption is that if they do so, they will be less successful in the employment arena. According to one respondent:

“Mental disorders, especially anxiety disorders, are poorly understood by the public and I believe the Bar is hostile to those of us who have such a disability.”
- ◆ Many lawyers with disabilities, report positive employment experiences. They note that with regard to their disability, their current employer treats them the same as other staff in the workplace (88%); that their work environment is supportive for a person with a disability (62%); and that their employer has not asked inappropriate questions about their disability (72%);
- ◆ For the sixteen percent (16%) of all respondents who reported a hostile work environment, it most often involved co-workers or supervisors (30%);
- ◆ Twenty-six percent (26%) of all respondents do not request accommodations on their job;
- ◆ Almost two-fifths (39%) of respondents receiving accommodations report that the approximate annual cost for their workplace accommodations is \$500 or less, with 26% reporting \$100 or less.
- ◆ Thirty-five percent (35%) of all respondents indicated that they have used various technologies to enhance or perform job function. It is worthy of note that technology which enhances accessibility is now commonly used for productivity and efficiency by most lawyers, whether or not they have a disability.
- ◆ Twenty-six percent (26%) of all respondents do not request accommodations on their job, compared to forty-two percent (42%) who do.
- ◆ Respondents report being denied employment opportunities in various aspects of employment, most frequently in the recruitment or hiring phase (31%) and during the retention or promotion phase (22%).
- ◆ Teleconferencing and telecommuting were identified as beneficial to lawyers with disabilities; and,

- ◆ A significant majority (64%) of all respondents believe that employers perceive or fear that the cost of health insurance would increase if they hire persons with disabilities.

Court and Community Accessibility Experiences

- ◆ Two-thirds (67%) of all respondents report that Courthouse accessibility has improved in the last 5 years;
- ◆ Barriers to the practice of law were reported to be most common in court environments;
- ◆ Seventy-seven percent (77%) of all respondents believe that there should be a statewide courthouse accessibility project (which actually commenced in June, 2006);
- ◆ Sixty-four percent (64%) of all respondents believe an accommodation rule is important, creating a centralized, statewide, and confidential registry for lawyers with disabilities, designating the accommodations they require in employment, court, administrative or Bar settings, and accepted by all entities;
- ◆ Approximately one-third of applicable respondents experienced: policy, practice or procedural barriers in the courts; negative comments about their disability by judges and court personnel; and a refusal or resistance to make reasonable accommodations for their disability related to court hearings. One-quarter reported experiencing negative comments about their disability by court personnel and non-judicial officers.

Recommendations

If only people's perceptions were as easy to retro-fit as buildings.
Survey Respondent

The Disability Independence Group recommends:

Law Schools

- ✓ A statewide committee of law school administrators be established to address issues identified in this survey. This Committee should also communicate issues to the Law School Admissions Council.
- ✓ Law schools should require on-campus interviewers to comply with the ADA, which would include accessible locations and materials, and non-discriminatory interviewing practices.
- ✓ Law schools should incorporate training covering disability awareness, ADA and accessible information technology training for staff and faculty.

Board of Bar Examiners and the Bar Admissions Process

- ✓ A review of all policies, practices and procedures related to applicants with disabilities be undertaken by the Florida Board of Bar Examiners.

Courthouse and Community Accessibility

- ✓ A statewide courthouse accessibility project should be conducted. It is recommended that communication accessibility and program access should be addressed as well as structural issues. (The Chief Justice of the Florida Supreme Court and the Florida Supreme Court's Standing Committee on Fairness and Diversity in the State Courts initiated a statewide Courthouse Accessibility Project, June, 2006. This project is currently underway.)
- ✓ An accommodation rule creating a centralized, statewide, and confidential registry for lawyers with disabilities, designating the accommodations they require, should be explored.
- ✓ The court system should incorporate training covering disability awareness, ADA and accessible information technology training for all court personnel, including members of the judiciary.

Employment

- ✓ Employers should increase employment opportunities for persons with disabilities in private mid to large size law firms, and employment diversity recruitment programs should target lawyers with disabilities.
- ✓ Florida law firms and state agency human resource departments should include persons with disabilities as an integral component of the definition of diversity.
- ✓ Employers should incorporate training covering disability awareness, ADA and accessible information technology training for all employees, including office management staff in both public and private settings.

Bar Associations

- ✓ One committee of the Bar should be established to review and address all policies, practices, and procedures related to disability issues. This committee would make recommendations to individual departments and entities. Ad Hoc Sub-Committees should be appointed for specific issues. All Committees should include lawyers with disabilities.

The following are a few of the issues to explore:

Policy requiring all CLE providers to commit to accessibility as an essential element for their seminar to be certified for CLE credits;

Group health insurance policy;

Requiring Bar-sponsored diversity training to include specific information regarding disabilities;

Clarification and publication of policies and procedures regarding services for persons with disabilities and the person or persons designated on Bar staff for disability services;

Continued excellent coverage of disability topics by the Florida Bar News;

- ✓ The Florida Bar's Equal Opportunity and the Law Section's Lawyers with Disabilities Committee should explore tasks or projects in the following areas: Accessibility issues including courthouse, web sites and communication; Training/education/awareness for members of the Bar, Judiciary and legal profession; and, projects related to mental health issues.

- ✓ Other Committees of the Bar should :

Assist in formulating and implementing disability and accessibility policies and procedures;

Monitor accessibility projects that are ongoing including the Statewide Courthouse Accessibility Initiative;

Develop and implement disability, ADA, accessible information technology and other relevant training throughout the legal system (public and private);

Review the Rules of Professional Conduct to ensure compliance with existing civil rights laws thereby guaranteeing non-discrimination of persons with disabilities;

- ✓ The Florida Bar should incorporate training covering disability awareness, ADA and accessible information technology training for all Bar employees and Bar leadership.

Disability Awareness and Other Training

- ✓ Training covering disability awareness (including physical, sensory and mental health disabilities), ADA and accessible information technology for individuals throughout the legal system, including law school faculty and staff, judges, placement staff, judges, employers, new lawyers, lawyers with disabilities, Florida Bar leadership, office management staff (public and private settings), and Court personnel;
- ✓ Training for lawyers with disabilities covering the Americans with Disabilities Act; The Florida Constitution, Article I, Section II; Rehabilitation Act of 1973, Sections 504 and 508 and Florida Voluntary State Telecommuting Program (Statute 110.71).

Conclusion

“The legal system can force open doors, and sometimes – even knock down walls, but it cannot build bridges. That job belongs to you and me.... [W]e can run from each other, but we cannot escape each other. We will only attain freedom if we learn to appreciate what is different, and muster the courage to discover what is fundamentally the same. America’s diversity offers so much richness and opportunities. Take a chance, won’t you? Knock down the fences which divide. Tear apart the walls that imprison you. Reach out. Freedom lies just on the other side. We shall have liberty for all.”

Thurgood Marshall, upon accepting The Liberty Bell Award
Philadelphia, July 4, 1992

Without question, our legal profession, and our legal systems, will be enriched once Florida’s lawyers with disabilities are permitted the full participation in their chosen profession to which they are entitled.

This survey provides us with excellent indicators of typical experiences of lawyers with disabilities. The qualitative data, experiences described by the respondents, is rich with information, insights, and suggestions. Many of these comments are included in the text of this report. The qualitative data was not published in its entirety in order to protect the privacy of the respondents.

The primary issues raised by respondents are the importance of reducing barriers to the practice of law; the need to expand employment opportunities for lawyers with disabilities; the need to improve courthouse and community accessibility; the importance of increasing participation in Bar activities and services; and, an overarching need for the removal of myths and stereotypes about disability.

The Disability Independence Group is truly appreciative of the commitment the Florida Bar has made to address concerns of its members who have disabilities as mentioned earlier. A number of respondents also stated their appreciation for the work done on this survey, by the Bar and by the Disability Independence Group.

In addition to the work being accomplished in Florida, a number of State and national Bar Associations and organizations across the country are beginning to address issues of importance to lawyers with disabilities. Among them are the California Bar’s Office of Legal Services, Access & Fairness Programs, Committee on Legal Professionals with Disabilities; the American Bar Association’s First National Conference on the Employment of Lawyers with Disabilities, May 2006; and, the U.S. Access Board’s Courthouse Accessibility Advisory Committee. It is hoped that this Survey Report in combination with earlier Disability Independence Group project reports, the Florida Bar’s Survey Data Report, and activities throughout the country, will serve as

catalysts for change, leading to the removal of barriers and providing opportunities for increased participation of legal professionals with disabilities in all environments.