



GOAL III

Report

– 2011 –

A report on the status of the participation of persons with disabilities in the ABA and its divisions, sections, and forums.

Table of Contents

I. EXECUTIVE SUMMARY.....	3
II. INTRODUCTION.....	5
III. THE STATUS OF AMERICANS WITH DISABILITIES.....	6
A. PEOPLE WITH DISABILITIES IN THE UNITED STATES.....	6
B. PEOPLE WITH DISABILITIES IN THE WORKPLACE.....	6
i. Recent figures.....	6
ii. Attitudes and surveys.....	7
iii. The current economic crisis.....	8
C. LAWYERS WITH DISABILITIES IN THE LEGAL PROFESSION.....	8
i. Recent figures.....	8
ii. The recent economic crisis and the legal profession.....	11
D. DISABILITY DIVERSITY IN THE LEGAL PROFESSION.....	11
IV. SURVEY METHODOLOGY.....	12
V. FINDINGS.....	13
A. ABA LEADERSHIP.....	13
B. ABA ENTITY LEADERSHIP.....	14
i. Primary & Committee Leadership.....	15
C. CLE Programming.....	16
D. Entity Membership.....	16
VI. ENTITY HONORS.....	17
A. HIGHEST HONORS.....	17
B. HONOR ROLL.....	18
i. Section of Business Law.....	18
ii. Government and Public Sector Lawyers Division.....	18
iii. Section of Individual Rights and Responsibilities.....	18
iv. Section of Labor and Employment Law.....	19
VII. OBSERVATIONS, CONCLUSIONS, AND RECOMMENDATIONS.....	19
VIII. ABOUT THE COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW.....	21
A. LAW PROJECTS.....	21
B. LEGAL PUBLICATIONS AND PRODUCTS.....	24
C. ONLINE PROJECTS AND FEATURES.....	26
D. COMMISSIONERS.....	27
ACKNOWLEDGEMENTS.....	32
REFERENCES.....	33

I. EXECUTIVE SUMMARY

The American Bar Association, through its Commission on Mental and Physical Disability Law, issues an annual report on the status of lawyers with disabilities within the organization and its leadership. For the 2010-2011 bar year, the Commission reports that progress has been disappointing overall, with only limited growth in a handful of categories and reductions in others. Highlights of this report include:

- ❖ National statistics show that attitudinal and economic barriers for individuals with disabilities lead to extremely low employment rates and salaries, especially when compared to individuals without disabilities. The current economic crisis exacerbates the low rate of employment of individuals with disabilities, including lawyers.
- ❖ The ABA reports that approximately 6.87% of its members identify themselves as having a disability.
- ❖ Only 17 of 750 ABA-presidential appointments went to lawyers with disabilities, compared to 46 of 693 for 2008-2009.
- ❖ Only 10 of the 34 eligible ABA entities track disability status of their members; there is concern about a lack of tracking of lawyers with disabilities within the ABA and the legal profession as a whole.
- ❖ None of the 40 members of the Board of Governors report having a disability; and there is no data collected on the disability status of the 567 members of the House of Delegates.
- ❖ The percentage (3.4%) and number (5,292) of the 157,598 law students at ABA-accredited law schools who requested accommodations has increased slightly from last year (3.2% and 4,941 respectively), demonstrating a slow but steady increase in these numbers over the past few years.
- ❖ The number of lawyers who hold leadership positions in ABA entities increased marginally from 31 for 2009-2010 to 32 this year.
- ❖ Forty-one percent of ABA entities report having a lawyer with a disability in a leadership position, a slight decrease increase from 44% in 2009-2010, no chairs or chairs-elect have a disability, however.
- ❖ The number of presenters and faculty with disabilities for ABA continuing legal education programs decreased sharply from 47 to 21.
- ❖ The Section of Business Law, Government and Public Sector Lawyers Division, Section of Individual Rights & Responsibilities, and Section of Labor and Employment Law made the

2011 Goal III Report

Commission's "Honor Roll," demonstrating a commitment to obtaining and retaining lawyers with disabilities in both their membership and leadership.

- ❖ The Commission notes that overall ABA entities still often fail to comply with two House of Delegates resolutions on disability:
 - The 2007 resolution that urges the legal profession to take steps to ensure that law-related website content is accessible to individuals with disabilities.
 - The 1993 resolution that "all the benefits of ABA membership, to the maximum extent feasible, are available to members with disabilities."
- ❖ There is concern from the Commission and its staff that some ABA entities, particularly in relation to staff-led efforts, are not making proper efforts to collect disability data.

II. INTRODUCTION

The American Bar Association (ABA) was founded in 1878 by 100 lawyers from 21 states. Today, the ABA has over 400,000 members making it the largest voluntary professional association in the world. The ABA provides law school accreditation, continuing legal education (CLE), information about the law, programs to assist lawyers and judges, and initiatives to improve the legal system for the public. The ABA's primary mission is "[t]o serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession."

To help carry out this mission, the ABA established Goal III: "[t]o eliminate bias and enhance diversity." An objective of Goal III is to "[p]romote full and equal participation in the association, our profession, and the justice system by all persons." The tenets of Goal III were drawn from its predecessor, former ABA Goal IX, which was "to promote full and equal participation in the legal profession by minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities." This 2011 report on the status of lawyers with disabilities within the ABA and its entities is an effort to advance Goal III and its ideals.

Stemming from the ABA's long history of promoting reform of the justice system, the ABA established in 1973 the Commission on the Mentally Disabled to focus on the advocacy needs of people with mental disabilities. After the passage of the Americans with Disabilities Act of 1990, the Commission broadened its

mission to serve all people with disabilities, and therefore changed its name to the Commission on Mental and Physical Disability Law (Commission). The Commission's mission is to "promote the ABA's commitment to justice and the rule of law for persons with mental, physical, and sensory disabilities and their full and equal participation in the legal profession."

The Commission is composed of lawyers and other legal professionals, many of whom have disabilities, are experts in the field of disability law, or have experience in assisting individuals with disabilities. These members serve on several committees (*see* Section VIII.A). For example, the Committee on Lawyers with Disabilities focuses on issues of importance to those who may have a disability in the legal community. The Commission's Committee on ABA Goal III prepared this report. Through these committees and other programs, the Commission is the only entity within the ABA—and the legal profession—that has a comprehensive focus on all lawyers and law students with disabilities on a national level.

The Goal III survey gathers information about the participation of persons with disabilities, as well as women, racial minorities, and persons who are gay, lesbian, bisexual, or transgender within the ABA and its divisions, sections, and forums.

The Commission's 2010-2011 *Report* presents the survey findings with respect to lawyers with disabilities, along with observations, conclusions and recommendations for the ABA, its leadership, and its staff. In addition, the *Report* also recognizes ABA entities that have demonstrated the ABA's commitment to lawyers

with disabilities by including them on an annual “Honor Roll.” Also included is information about the Commission’s publications, special projects, and members.

III. THE STATUS OF AMERICANS WITH DISABILITIES

This section estimates the number of people with disabilities in the United States, in the workplace, and in the legal profession.

A. PEOPLE WITH DISABILITIES IN THE UNITED STATES

According to the most recent and comprehensive data from the U.S. Census Bureau (USCB), in 2005, 54.4 million Americans reported having a disability—nearly one in five (19%)—with 6.5 million reporting a severe disability. Using the most recent 2008 data from the USCB, the American Community Survey (ACS),¹ Cornell University’s Rehabilitation Research and Training Center on Disability Demographics and Statistics (Center) reported 12.9% of the U.S. population over the age of five as having a disability, with the largest represented type of disability being an “ambulatory disability” (6.9%).

It has been frequently stated that people with disabilities constitute America’s largest minority group.²

¹ The American Community Survey is a relatively new tool developed by the USCB. It is an interim report for the decennial census, has a much smaller survey population, and provides timelier pictures of the American population.

² See e.g., National Organization on Disability (http://www.nod.org/news/harris_interactive_survey_largest_minority_group_falls_behind_in_companies/)

B. PEOPLE WITH DISABILITIES IN THE WORKPLACE

i. Recent figures

Recent statistics and surveys that reveal attitudinal barriers in society regarding the employment of persons with disabilities help explain the small number of lawyers with disabilities who are employed in the legal profession. Based on the most recent 2008 ACS numbers, the Center reported that there were 18,312,900 Americans with disabilities of working age (21 to 64).³ However, only 39.5% were working, compared to 79.9% for non-disabled persons. This reveals a large employment gap between the disabled and non-disabled of 40.4 percentage points.

The Department of Labor’s Bureau of Labor Statistics (BLS)—using data from the Current Population Survey, a monthly sample survey of U.S. households—released a labor force characteristics summary in August 2010 for 2009. BLS stated that that the employment-population ratio was 19.2% among those with a disability and 64.5% for those without a disability. These figures provide an even larger employment gap between the disabled and non-disabled at 45.3 percentage points. BLS reported that 8 out of 10 individuals with disabilities were not in the labor force.⁴ compared to 3 out of 10 for those with no disability.⁵

³ The 2009 prevalence rate for individuals with disabilities in the American working population was at 8.4%.

⁴ Individuals who are neither employed nor unemployed.

⁵ The vast majority of those not in the labor force stated that they do not want a job, yet BLS did not provided reasoning for their desire to remain out of the labor force.

For 2008, the Center reported that for full-time/full-year jobs, 25.4% of working-age persons with disabilities were employed, compared to 60.4% for non-disabled persons. Median annual salaries for disabled workers were 12.5% less than those for non-disabled workers.

Shawn Fremstad of the Center for Economic and Policy Research concluded in September 2009 that “[d]is ability is both a fundamental cause and consequence of income poverty.” He reports that (1) around 50% of all working-age adults who experience income poverty have a disability; (2) nearly 66% of adults experiencing long-term income poverty have a disability; and (3) individuals with disabilities experience income poverty more than those in any other single minority, ethnic, or racial group. Fremstad noted that people with disabilities have a more difficult time retaining income for necessities due to the substantial cost associated with having a disability (e.g., extra medical bills, purchasing assistive devices) and that these costs rise as the severity of the disability rises. The Center, citing the ACS, finds the poverty rate for workers with disabilities was significantly higher (25.3%) than the rate for non-disabled workers (9.6%).

ii. Attitudes and surveys

When polling individuals with disabilities, a Kessler Foundation/National Organization on Disability (KF/NOD) 2010 survey found that only 21% of those who are of working age (18 to 64) said that they are employed full or part-time, compared to 59% of working age-people with no disability. Seventy-three percent of those who

described themselves as unemployed cited their impairment as one of the reasons why they did not have a job. While 43% of all individuals with disabilities claimed that they have encountered some form of job discrimination, this number dropped significantly to 26% when limited to experiences in the past five years.

Studies regarding employer attitudes and activities are also worth noting. A 2010 KF/NOD survey of over 400 American companies found that “[a]lthough corporations recognize that hiring employees with disabilities is important and, for the most part, do not perceive the costs of hiring people with disabilities to be prohibitive, most are not hiring many people with disabilities and few are proactively making efforts to improve the employment environment for them.” The survey found that few companies, 29% of those surveyed, have either a disability diversity-specific policy or program and only 18% of companies offer disability education programming. The costs associated with accommodating an employee with a disability appears to be a non-issue for most employers, as the survey found that 62% of employers believe the costs of hiring a person with a disability is the same as hiring a person without a disability. The survey concluded that “[t]he reason most employers are doing so little [about disability diversity] is that disability, and the employment of people with disabilities, does not seem to be on their radar.”

The U.S. Department of Labor’s Office of Disability Employment Policy, in a November 2008 report, surveyed a sample of American companies in various industries and of various sizes. The survey found that only 19.1% of the

companies surveyed employed individuals with disabilities, and only 13.6% actively recruited people with disabilities. In addition, only 8.7% of the companies surveyed had hired someone with a disability within the past year. Moreover, 72.6% of those companies cited the “nature of work being such that it cannot be effectively performed by a person with a disability,” as a hiring challenge.

iii. The current economic crisis

The recent—and possibly ongoing—recession has exacerbated problems for individuals with disabilities. While there is much attention and concern over America’s high unemployment rate, which has been hovering around 9%, BLS reported that for 2009 the unemployment rate for individuals with disabilities was at 14.5%. In November 2009, BLS reported an employment-to-population ratio of 18.4% for individuals with disabilities, the lowest percentage since monthly tracking of this figure began in 2008. For the entire year of 2009, that number was only slightly better at 19.2%.

Professor H. Stephen Kaye of the University of California, San Francisco, while using BLS statistics, concluded that there was a direct effect of the recession upon workers with disabilities. He stated that the disproportional effect has resulted in a 9% decline in the presence of workers with disabilities in the employed labor force.

Even worse is that—as purported by Professor Kaye—economic downturns, and the unfortunate conditions they create, have the ability to negatively affect the mental and

physical conditions of the workforce, thus resulting in increased disability among labor force participants.

As Joseph Shapiro reported for National Public Radio, during the current job crunch the unemployment rate for those with disabilities is nearly double that of those without disabilities. Moreover, this number may be on the conservative side, because the majority of the current data does not consider how many people with disabilities have given up looking for work and are not in the labor force. Finally, the recession’s effect on state budgets has led to cuts in the areas typically important to those who are unemployed and have a disability, namely vocational training, post-secondary education assistance, and social services.

On the employer side, only 2% of companies surveyed by the KF/NOD reported that in the last three years they had a new hire with a disability.

C. LAWYERS WITH DISABILITIES IN THE LEGAL PROFESSION

i. Recent figures

To begin with there is a pipeline problem: individuals with disabilities are less likely to apply and be admitted to law school. As described above, there is a strong disability-poverty correlation. Therefore, many of those with disabilities are not even able to finance law school, let alone sustain the burden of its debt. Moreover, the Center reports that only 12.3% of working-age persons with disabilities held a Bachelor’s degree or higher, compared to 30.6% of non-disabled persons, an 18.3 percentage

point gap. This education disparity helps explain why so few persons with disabilities become lawyers, as many individuals with disabilities lack the educational background and academic prerequisites to apply to law school.

The ABA conducts an annual census of its lawyer members. According to 2010 figures, 32,122 of the approximately 383,000 ABA members completed the census questionnaire. Of the 7,731 respondents who answered the query “Do you have a disability?,” only 531, or 6.87% answered affirmatively. This number is a slight increase from the 2009 census at 6.76%, but still less than 2007’s 7.18%. This percentage is far lower than one would expect given the national statistics on the percentage of Americans with disabilities. Extrapolating this figure to the entire ABA membership, approximately 26,306 members would report having a disability for 2010.

BLS reported that for those who were employed and had a disability in 2009, 0.9% were in the legal profession (e.g., lawyers, judges, magistrates, law clerks, court reporters, paralegals). The number for those who worked in the legal profession in 2009 and did not have a disability was higher at 1.2%. BLS also reported that for the third quarter of 2010 (July, August, and September), 3.2% of those employed in the legal occupation had a disability. This figure is noticeably higher than the 2.6% reported for the third quarter of 2009. Also, Professor Kaye of UC San Francisco, based off of BLS data found that workers with disabilities have a much greater presence in “low-skill” occupations as opposed to “high skill” occupations.

The ABA’s Market Research Department collected relevant statistics on lawyers with

disabilities for its National Lawyer Population Survey in 2009, but did not ask about disability in 2010 because only 3 of 54 American jurisdictions that license attorneys collected information on lawyers with disabilities. In 2009 Colorado estimated 0.15%, or approximately 29 lawyers, had a disability; Delaware estimated less than 1%, or 25 lawyers; and South Dakota estimated 1%, or 17 lawyers.

The Commission hypothesizes that all of these numbers may be substantially less than the actual number of lawyers with disabilities in the ABA and the profession. Many may choose not to answer the question relating to disability status due to confidentiality concerns, while others may not consider themselves as having a disability.

These low percentages of lawyers with disabilities reflect at least four trends: (1) relatively few college students with disabilities attend law school due to factors ranging from lack of funds to problems with attaining accommodations for the Law School Admissions Test; (2) not everyone with a disability who attends graduates or passes the bar; (3) due to socioeconomic factors and a lack of offered accommodations, it appears that a lower percentage of lawyers with disabilities join the ABA than non-disabled lawyers; and (4) a greater percentage of law school graduates with disabilities do not find employment as lawyers. Ultimately, these figures also reflect the need to have a comprehensive national effort to collect information on lawyers with disabilities.

For 2010-2011, the ABA Section of Legal Education and Admissions to the Bar indicated that of 157,598 law students in ABA-accredited

2011 Goal III Report

law schools (both J.D. and LL.M students), 5,292 (3.4%) were provided accommodations—up from 4,941 (3.2%) for 2009-2010 (*see* Figure 1). Yet despite such increases, it is worth noting that these figures do not reflect an actual estimate or figure as to how many law students in ABA-accredited law schools have a disability.

As seen in Figure 1 below, there has been a small but steady rise in the number of law students with disabilities who request accommodations over the past few years. Although there is a rise in total students enrolled over this period, the percentage of law students who request accommodations has increased as well.

ACADEMIC YEAR	LSD*/ABA** *number of law students with disabilities provided accommodations ** number of law students in ABA-accredited law schools	PERCENT
2010-2011	5,292/157,598	3.40
2009-2010	4,941/154,549	3.20
2008-2009	4,111/152,005	2.70
2007-2008	4,229/149,745	2.82
2006-2007	3,803/148,697	2.56

Figure 1: Law students with disabilities who were provided accommodations

The National Association for Law Placement (NALP) conducts an annual survey and study, entitled *Jobs & J.D.'s: Employment and Salaries of New Law Graduates*, on the employment rates of law graduates by gender, minority, and disability. For the class of 2009, 80.7% of 590 law graduates with disabilities were employed after graduation, compared to 84.4% of 565 law graduates last year, a sharp decrease. Even compared to other groups, graduates with disabilities do not fare well as 89.2% of non-minority law graduates and 84.8% of minority law graduates attained employment. Graduates with disabilities have an employment rate 7.6 percentage points lower than the entire class of 2009.

In the same survey, 9.3% of disabled law graduates indicated that they were unemployed and seeking a job—a noticeable rise from the 8.1% reported for the class of 2008 and 7.4% reported for the class of 2007—compared to 5.8% for all non-minority law graduates and 7.1% for all minority law graduates.⁶

Of the 232 salaries reported by graduates with disabilities, the mean salary was \$84,018 and the median salary was \$62,973. These salaries were considerably lower than the mean and median salaries computed by NALP for men and woman

⁶ Yet what is still not known from statistics on law students is what percentage of students with disabilities graduate as opposed to students with no disabilities.

graduates of all races: \$93,454 and \$72,000 respectively (19,513 salaries reported).

These somber statistics led NALP to conclude that: “Graduates with disabilities were less likely to be employed and, if employed, less likely to obtain jobs in private practice than the class [of 2009] as a whole—and more likely to obtain government and public interest positions.”

There is also concern over retention and promotion of lawyers with disabilities. Even if the small number of lawyers with disabilities who make it into and through law school attain employment, it is necessary to make sure they are afforded the opportunity to remain and prosper at their jobs. Having lawyers with disabilities climb the ranks of their firms or organizations also sends a strong signal to potential employees with disabilities that the legal profession does embrace disability diversity. Yet, as noted by Stephen D. Yslas, general counsel of Northrop Grumman in a *National Law Journal* article, simply hiring from minority groups is not enough. As he stated, “law firms are [already] lagging behind corporate America in making diversity a focal plan of their business plans.” To make sure lawyers with disabilities are accommodated and able to stay with an employer, he suggests that “[d]iversity in law firms and in corporate law departments needs to become an enduring core value attitude and practice that continues long after the current attorney population has moved on.”

ii. The recent economic crisis and the legal profession

The current economic crisis is still negatively impacting the legal profession. According to the

ABA Journal, BLS data showed that for November 2010 the legal sector had a second month of job loss with 1,100 fewer jobs. The data also shows that the legal sector has 100 fewer jobs in November 2010 than November 2009. The *National Law Journal* reported in November 2010 that the country’s larger law firms are still cutting jobs with 1,1400 for the past year.

For all law graduates of the class of 2009, NALP reported that the employment rate of new law graduates dropped to 88.3%, the second straight year of decline, after a historical high of 91.9% for the class of 2007. Moreover, NALP concludes that this rate masks a number of weaknesses in the current job market for new graduates, including “higher rates of part-time and temporary employment, the fact that several thousand graduates had their law firm job start dates deferred beyond the usual fall timeframe, and the fact that one in five employed graduates was seeking different employment.”

D. DISABILITY DIVERSITY IN THE LEGAL PROFESSION

In recent years, ABA presidents have made disability diversity a priority. Past ABA President Michael S. Greco (2006-2007) hosted the First National Conference on Employing Lawyers with Disabilities, a groundbreaking event for the legal and disability communities. Past ABA President William H. Neukom (2007-2008), in his *ABA Journal’s* President’s Message of November 2007, recognized that, although it is difficult to determine the exact degree that the disabled community is underrepresented in the legal community, it is evident that “[l]awyers with disabilities, too, have greater difficulty

getting a job after law school and have higher rates of unemployment than lawyers who do not have disabilities.” He called on the legal profession to embrace the objectives of then-Goal IX in order to root out invidious discrimination.

Past ABA President H. Thomas Wells, Jr. (2008-2009) hosted a series of programs with ABA leadership on Goal III. The programs culminated at his diversity summit in Washington, DC on June 18-20, 2009. That same week he hosted—along with this Commission, the Association of Corporate Counsel, and the Minority Corporate Counsel Association—the Second ABA National Conference on the Employment of Lawyers with Disabilities. More information about the employment conference, including the event’s official report, can be found at: <http://www.abanet.org/disability>. After the employment conference, at the ABA Annual Meeting, President Wells held a follow-up meeting to discuss the transitional steps for promoting diversity in the legal profession.

Immediate-Past President Carolyn B. Lamm (2009-2010) made diversity a central focus of her term. Under her Presidential Diversity Initiative, President Lamm created the Presidential Diversity Commission. The Diversity Commission’s purpose was to help, among other groups, lawyers with disabilities “navigate the cultures and practices in law firms and corporations to pierce the glass ceiling.” The Diversity Commission held a learning program series for diverse lawyers—that included presenters with disabilities—throughout the 2009-2010 bar year and published a blueprint for promoting diversity in the legal profession, *Diversity in the Legal Profession: Next Steps*

(available at:

<http://new.abanet.org/centers/diversity/PublicDocuments/Next%20Steps%20Final-Virtual%20Accessible%20042010.pdf>).

The current President, Stephen N. Zack, in promoting a forthcoming Commission publication on the employment of persons with disabilities (*see* Section VIII.B below), has emphasized the importance of ABA Goal III and declared that: “Employing persons with disabilities is not only the right thing to do, but it is sensible and wise.”

IV. SURVEY METHODOLOGY

Annually surveying ABA Divisions, Sections, and Forums requires a collaborative effort between the four Goal III entities: the Commissions on Mental and Physical Disability Law, Racial & Ethnic Diversity in the Profession, Sexual Orientation and Gender Identity, and Women in the Profession. Each Commission drafts its own questions and its own Goal III report. In many respects, however, the questions asked and the data sought are similar for all four groups. The accuracy of the data depends in large measure on the staff of the entities designated to report the data. The 2010-2011 survey is completed as a workbook in Microsoft Excel. The survey solicits qualitative and quantitative information. The larger ABA entities—divisions, sections, and forums—are required to answer both sets of questions; the smaller entities—such as committees and commissions—only submit qualitative information and numbers regarding the disability status of their CLE programming

faculty.⁷ Some ABA entities collect their data by soliciting their members directly, others make use of the ABA census data collected as it particularly pertains to their members.

ABA divisions are centered on different groups of professionals in the legal community. They differ from sections in that they usually have boards of governors.

ABA sections draw their membership from lawyers or judges with common professional interests, and operate much like independent bar associations with their own officers, dues, committees, and programming. They typically represent a substantive area of the law through their more than 3,700 committees and various publications. Sections, with officers and council members as leaders, contribute to policy-making, both in their particular subject areas and association-wide.

ABA forums are open to membership, as long as one is a member of an ABA section or division. The forums explore and monitor new areas of the law as they develop.

Other ABA entities, including commissions, special committees, standing committees, and task forces, advise and implement policy for specific areas and causes related to the legal profession and have a relatively small number of members.

The Commission stresses the importance of staff cooperation in collecting and submitting proper data for this report in order to fulfill Goal III. The time and effort dedicated by Commission staff to properly analyze the data is significant; therefore, it is expected that all

eligible ABA entities should make a diligent effort to produce proper disability diversity data, but that is not always what happens.

The Commission recognizes the inherent difficulties associated with collecting data on the numbers of lawyers with disabilities. Many types of disabilities, such as learning disabilities, may not be apparent. Moreover, a sizable percentage of law school graduates with disabilities do not find employment as lawyers. Also, respondents may not understand what constitutes a disability. The Commission broadly defines “disability” as “[a] significant mental, sensory, or physical impairment or condition such as epilepsy, muscular dystrophy, multiple sclerosis, mental illnesses, dementia, learning disabilities, AIDS, cancer, diabetes, heart disease, stroke, blindness and other visual impairments, deafness and other hearing impairments, and alcoholism.” Disability status may be inferred from members’ self-identifications, direct observation, requests for accommodations, and appointments data. To deal with any identification difficulties, the Commission does make available to ABA entities a frequently asked questions document that addresses these issues and offers advice.

V. FINDINGS

A. ABA LEADERSHIP

Since 2004, the ABA President’s Office ensures that applications for presidential appointments include a question regarding disability status. For 2010-2011, 17 of 750 presidential appointments went to persons identified as having a disability, compared to 18 out of 760 presidential appointments for 2009-2010 and 46 out of 693 in

⁷ From hereon after, reference to “ABA entities” refers to only sections, divisions, and does not include forums and not committees, commissions, and centers.

2008-2009. None of the 40 ABA members who serve on the Board of Governors, the executive arm of the ABA, reported having a disability. Currently, 567 ABA members serve in the House of Delegates, the ABA's policy-making body, but the ABA does not maintain statistics on the number of lawyers with disabilities who are members of the House of Delegates.

B. ABA ENTITY LEADERSHIP

For 2000-2010, 32 of approximately 11,000 ABA entity leadership positions were held by lawyers identified as having disabilities—a slight increase from 31 in 2008-2009 (*see* Figure 2). Still, only a fraction of 1% of ABA leadership identified themselves as having a disability.

There was a decrease in the percentage of ABA entities that have attorneys with disabilities on their leadership teams, from 44% to 41% (*see* Figure 3). Those that do are: Forum Committee on Air and Space Law; Section of Antitrust Law; Section of Business Law; Criminal Justice Section; Section of Dispute Resolution; Government and Public Sector Lawyers Division; Health Law Section; Section of Individual Rights and Responsibilities; Judicial Division (Appellate Judges Conference & Lawyer's Conference); Section of Litigation; Section of Public Contract Law; Section of Real Property, Trust and Estate Law; Section of Science and Technology Law; and Senior Lawyers Division.

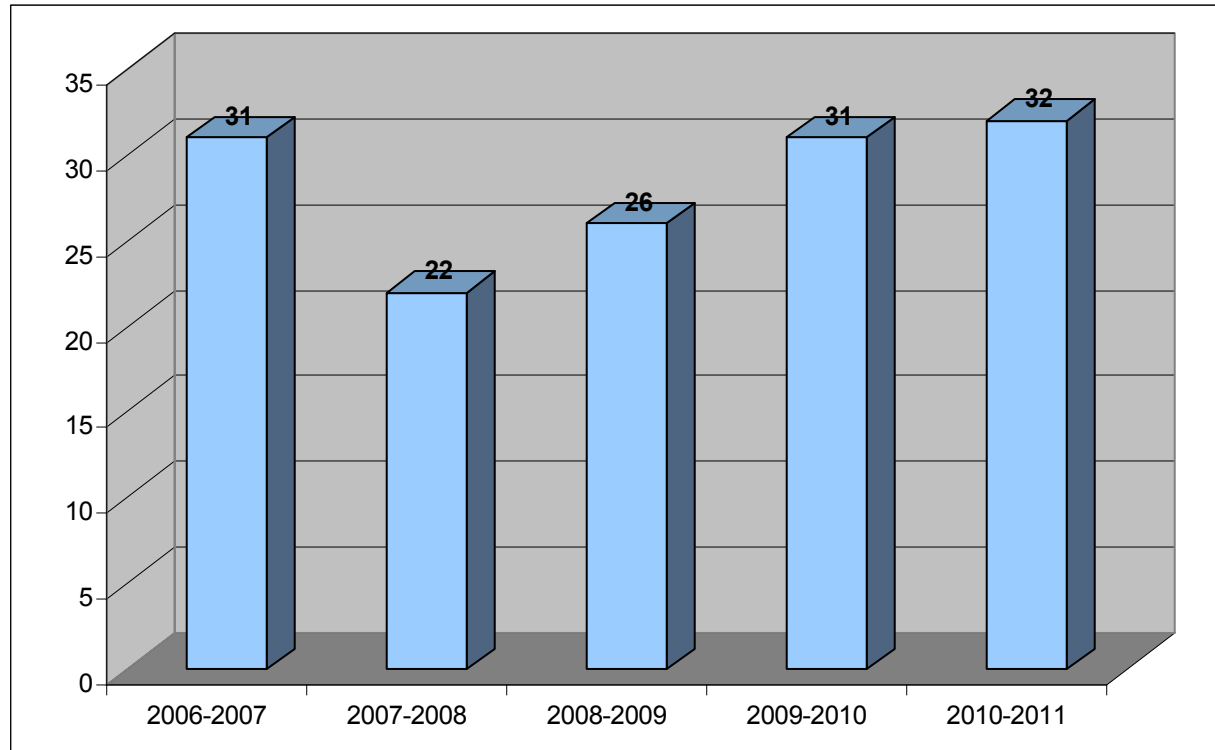


Figure 2: Total ABA entity leadership positions held by lawyers with disabilities.

i. Primary & Committee Leadership

Primary leadership positions (section officers or forum chairs, chairs-elect, immediate-past chairs, and appointed leadership) are those considered the most influential within the divisions, sections, and forums. For 2010-2011, only 2 lawyers with a disability held primary leadership positions. This is significantly lower than the 14 from 2005-2006, but more than the 1 recorded last year. No chairs or chair-elects for any of the 34 ABA entities reported having a disability (*see* Figure 4).

For 2010-2011, 14 lawyers with disabilities held committee chair positions (see Figure 4),

the same amount as 2009-2010. Eleven of the 34 eligible entities reported having committee positions held by lawyers with disabilities, one less from last year. Those entities are: Section of Antitrust Law; Section of Business Law; Section of Dispute Resolution; Government and Public Sector Lawyers Division; Section of Health Law; Section of Individual Rights and Responsibilities; Section of Litigation; Section of Public Contract Law; and Section of Science and Technology Law. The number of additional committee leaders with disabilities increased from from 8 to 13.

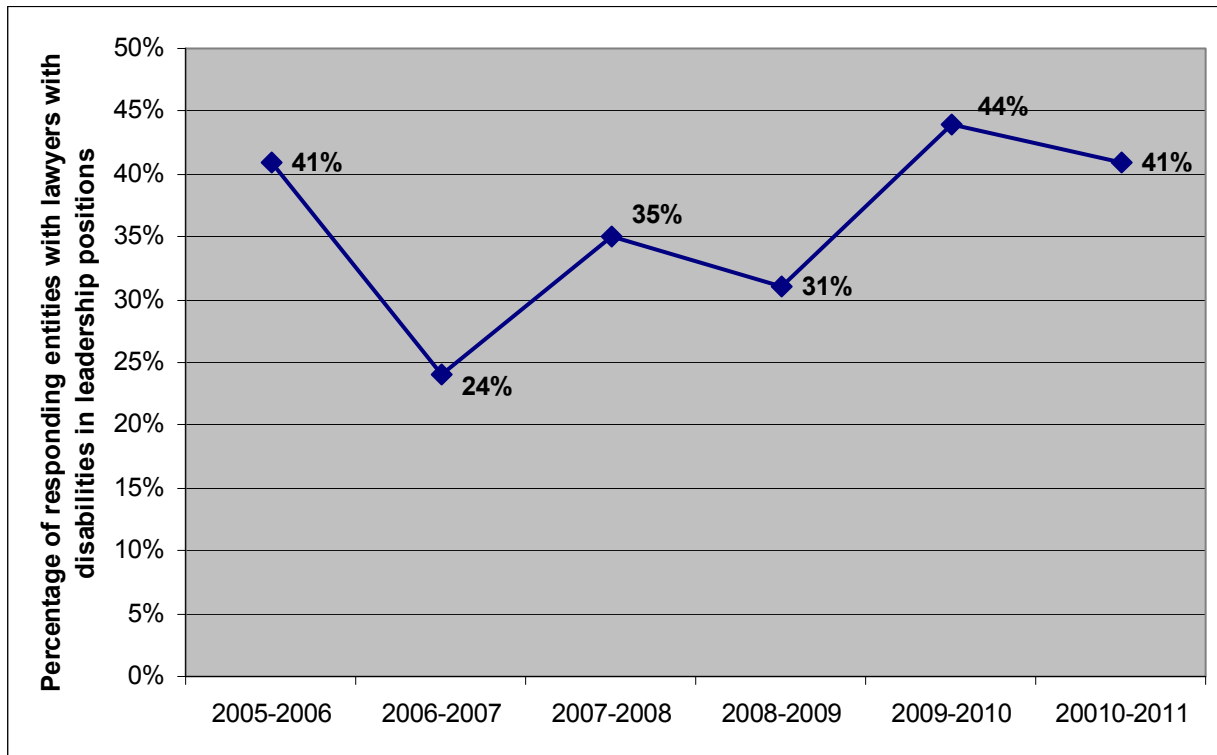


Figure 3: 6 year trend of percentage of ABA entities with lawyers with disabilities as leaders.

C. CLE Programming

Each ABA entity chooses the faculty for its CLE programs. For 2010-2011, 21 presenters at ABA CLE programs were identified as having a disability, a sizable decrease from 47 in 2009-2010. In addition to divisions, sections, and forums, commissions and committees submit tallies on programming faculty. Aside from the Commission, 10 entities included lawyers with disabilities in CLE programming: Section of Administrative Law and Regulatory Practice; Commission on Domestic Violence; Section of Business Law; Forum Committee on Construction Industry; Criminal Justice Section; Section of Health Law; Commission on Lawyer Assistance Programs; Section of Taxation; Commission on Women in the Profession; and Young Lawyers Division.

The Commission on Mental and Physical Disability Law held a CLE program at the 2010 ABA Annual Meeting in San Francisco, California, entitled “Miranda Warnings and Waivers: The Impact of Age, Culture, and Disability Status” The event was co-sponsored by: General Practice, Solo, and Small Firm Division; Government and Public Sector Lawyers Division; Section of Individual Rights and Responsibilities; Commission on Law and Aging; Standing Committee on Legal Aid and Indigent Defendants; Standing Committee on Pro Bono and Public Service; Standing Committee on Public Education; Division for Public Services; Commission on Racial and

Ethnic Diversity; Section of Science and Technology Law; Senior Lawyers Division; and Commission on Youth at Risk.

D. Entity Membership

Last year the Commission began asking ABA entities to collect the number of their members that have a disability. Data collection at this micro-level not only shows an entity’s commitment to disability diversity and Goal III (so they can track and better address the needs of members with disabilities), but it also can assist the ABA as a whole by showing what areas of the law and demographics need help in recruiting and retaining members with disabilities.

Ten out of an eligible 34 ABA entities track disability status for their members, one more from last year. They are: Section of Antitrust Law; Section of Business Law; Section of Family Law; General Practice, Solo, and Small Firm Division; Section of International Law; Section of Litigation; Section of Science and Technology Law; Senior Lawyers Division; Tort, Trial and Insurance Practice Section; and Young Lawyers Division. Section of Family Law has the highest percentage of their members reporting a disability with 0.98%, or 94 out of 9,636. Section of Family Law had the highest percentage last year at 0.79%. Young Lawyers Division had the highest total number of members with disabilities at 784, followed by the Section of Litigation with 449.

2011 Goal III Report

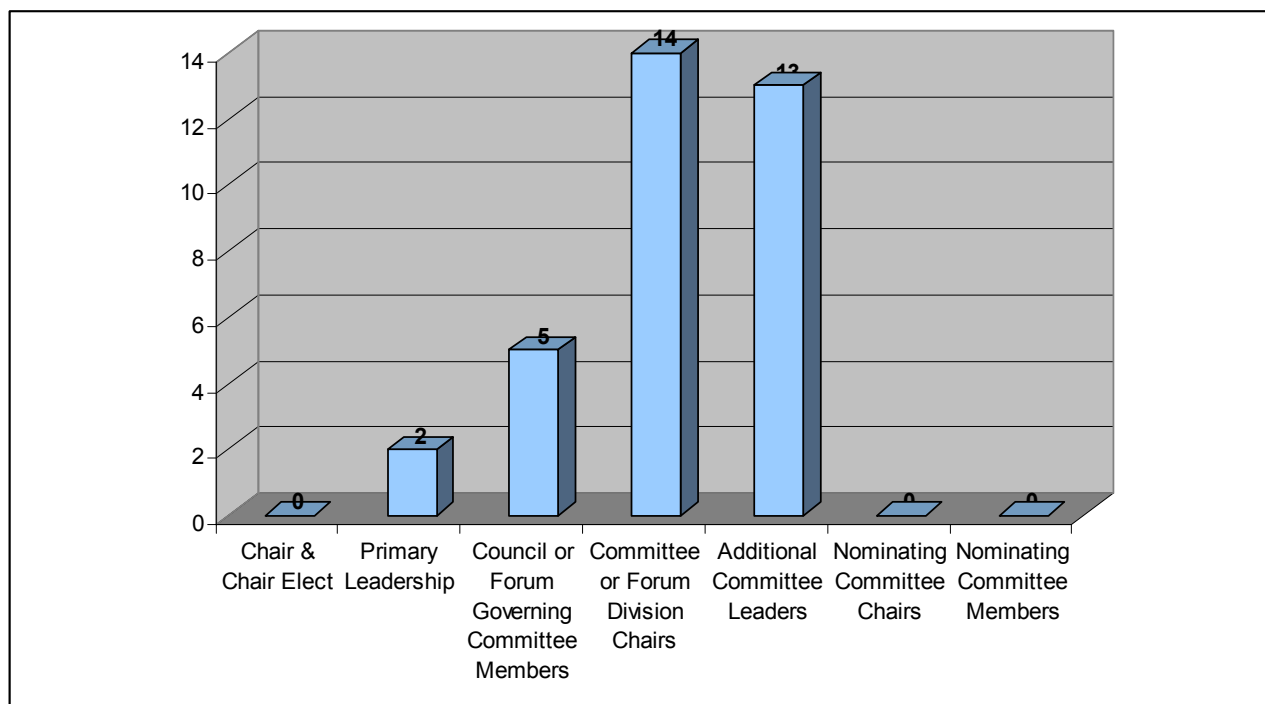


Figure 4: Types of entity leadership positions held by lawyers with disabilities.

VI. ENTITY HONORS

The Commission on Mental and Physical Disability Law has an “Honor Roll” for those divisions, sections, and forums that have demonstrated the ABA’s commitment to lawyers with disabilities. Primary factors considered include whether the entity (1) has more than 1 lawyer with a disability in a leadership position (i.e., primary entity leader or committee chair); (2) has at least 5% of their committee population (i.e., governing committee or nominating committee) consist of lawyers with disabilities; (3) has selected at least 5 CLE faculty with a disability; and (4) has demonstrated a concerted effort to include lawyers with disabilities in entity activities.

In addition, the Commission gives “Highest Honors” to those entities that have performed exceptionally well in efforts to “eliminate bias and enhance diversity,” particularly those for lawyers with disabilities. By recognizing ABA entities that make the “Honor Roll” and “Highest Honors,” the Commission hopes to encourage their efforts to expand their recruitment and accommodation initiatives aimed at lawyers with disabilities and, thus, serve as role models for other ABA entities.

A. HIGHEST HONORS

For the third year in a row, the Commission awarded no entity this status.

B. HONOR ROLL

The Commission has the following 4 entities for 2010-2011 “Honor Roll” status:

i. Section of Business Law

For the seventh year in a row, the Business Law Section, chaired by Lynne B. Barr, made the Commission’s Honor Roll.

Two of its committee chairs and 5 of its additional committee leadership are lawyers with disabilities. The Section is one of the handful of ABA entities that tracks disability status for its members. The Section has over 55,000 members.

Its leadership committed 3% of its annual budget, or \$204,300, to diversity efforts last year.

This Section’s Committee on Diversity sponsors a Diversity Networking Reception the evening before its spring meeting. For its spring 2010 event, the Committee reached out to local groups and associations representing lawyers with disabilities, and over 150 people attended. The Section’s Committee on Diversity Women offered complimentary attendance to local lawyers with disabilities for its Business Law Network’s dessert reception. The Diversity Committee also has a subcommittee that is specifically focused on the involvement of lawyers with disabilities in the Section.

The Section staged a program at the 2010 ABA Annual Meeting entitled “Making the Business Case for Diversity and Inclusion,” which had over 40 attendees. In April 2011 it plans to hold a program titled, “Establishing a Culture of

Excellence in Your Organization: Beyond Diversity and Inclusion.”

In addition, the Section’s Business Law Diversity Clerkship Program, which encourages students to pursue business court clerkship opportunities and careers in the practice of business law, gives special consideration to individuals who have overcome challenges such as economic hardship or disability. Moreover, the Section’s Business Law Fellow, Ambassadors and Diplomat Program specifically targets law students with disabilities, among other diversity groups, to be more involved with the Section’s leadership and programs. The program offers financial resources and participation opportunities. The Diplomat for 2008-2010 was a former Commission member.

Finally, a member of the editorial board for the Section’s main periodical, *Business Law Today*, includes a lawyer with a disability, Joan Durocher, and the Section maintains a liaison with the Commission, Margaret M. Foran.

ii. Government and Public Sector Lawyers Division

This Division, chaired by Gary L. Anderson, had the most impressive numbers for the 2011 survey. Twenty-five percent (2 out of 8) of its primary leadership have a disability and 2 out of its 11 committee chairs are lawyers with disabilities.

iii. Section of Individual Rights and Responsibilities

Chaired by C. Elisia Frazier, this Section continues to provide support for the National

Association of Law Students with Disabilities (NALSWD). The Section helped in establishing NALSWD, and still offers support for financing, marketing, and membership recruitment. This year, the Section helped NALSWD with collecting donations from law firms and legal employers to fund its January 2011 national conference as well as a scholarship program.

One of its 21 committee chairs has a disability, and the Section has a Committee on the Rights of Persons with Disabilities.

iv. Section of Labor and Employment Law

Through its liaison, Gregg Formella, this Section has a strong relationship with the Commission. The Commission's liaison gave a presentation on its diversity pledge at the 2010 employment law conference's luncheon for in-house corporate counsel.

The Section's Employment Rights and Responsibilities Committee and its Equal Employment Opportunity Committee put on two CLE programs discussing disability employment law. The Section's chair is Gordon Eugene Krischer.

VII. OBSERVATIONS, CONCLUSIONS, AND RECOMMENDATIONS

The Commission is concerned about what ABA entities have reported for 2011. Most quantitative categories—aside from negligible gains in the total number of leadership and primary leadership positions held by attorneys with disabilities—posted either no gains or revealed decreases. Moreover, the programs and

efforts once publicized in previous years by ABA entities to recruit and maintain members with disabilities are no longer found in entities' submissions.⁸ In sum—barring the entities listed above in the Honor Roll—there is little to tout regarding the promotion of disability diversity and the elimination of disability bias within the ABA.

Since 1998, the Commission has seen incremental increases and decreases in the number of leadership positions held by lawyers with disabilities, ABA entities that include lawyers with disabilities in leadership positions, and ABA entities that specifically include lawyers with disabilities in their diversity statements, goals, action plans, and programming. Yet recently, there appears to be reason for concern that ABA entities are not doing all that can be done to promote Goal III with respect to lawyers with disabilities. In addition to the lower-than-average numbers provided above, specific examples include:

- After 10 years of having disability diversity included in the ABA's goals, 18 ABA entities have failed to report that they have a diversity statement or have incorporated lawyers with disabilities into their existing diversity statements.
- Several ABA entities appear to be unaware as to whether their website—particularly the content that they have control over—is accessible

⁸ It could not be determined whether these omissions were due to either the fact that these programs and efforts are no longer in existence or reporting errors.

to visitors with disabilities. Other entities state that their website is not accessible, a violation of ABA policy.

- Some ABA entities stated that they do not make their publications and resources accessible, a violation of ABA policy.
- The Section of International Law stated that they did not solicit members for Goal III data this year and, after it was discovered that they recycled their data from last year, said that they estimated this year's numbers.
- Several submitted Goal III surveys contained incomplete data fields.

These examples are especially troubling given the estimated 26,300 ABA members who self-identify as having a disability.

One positive trend is that this year did see a large number of committee chairs and committee leaders within ABA entities who have disabilities. Hopefully, as these members will rise within their respective ranks, and they will serve on councils, governing committees, and as chairs.

Since 1999, when the ABA first included lawyers with disabilities as part of its commitment to diversity, the Commission has strived through its programs, projects, and publications to serve as a role model to all ABA entities and the legal profession. The Commission applauds ABA President Stephen N. Zack, as well as Past Presidents Carolyn B. Lamm, H. Thomas Wells Jr., Michael S. Greco, and William H. Neukom, for their efforts to

increase the number of lawyers with disabilities in ABA leadership position and the profession as a whole. The Commission further applauds those ABA entities that made the "Honor Roll" and, thus, serve as examples for all ABA entities.

In light of these observations and conclusions, the Commission encourages the ABA and its entities to:

1. Continue to develop better ways to identify and track the number and progress of lawyers with disabilities within the ABA and all of its entities. It is still urged that entities ask its members if they have a disability when enrolling or surveying its membership as opposed to relying on ABA census information. On a broader scale, the ABA should develop plans to determine how many lawyers have disabilities.
2. When tracking the number of their members with disabilities, entities or the ABA should do so in a manner that is not intrusive, but still allows for a reasonably accurate count.
3. Realize that under Goal III disability status is a diversity category along with gender, race/ethnicity, or status of sexual orientation.
4. Recruit *actively* and include lawyers with disabilities in leadership positions in divisions, sections, and forums. Efforts for recruitment should include informing law students at the beginning of their careers about entity activities and creating specific networking opportunities for lawyers with

- disabilities at Mid-Year and Annual meetings, as well as CLE training.
5. Maintain long-range diversity goals and plans that specifically include lawyers with disabilities, update these plans on a regular basis, and include lawyers with disabilities in their formation and review.
 6. Include disability as a diversity category in any already-existing diversity statement.
 7. The ABA and its entities should work to help increase the number of persons with disabilities who attend law school.
 8. When publishing (whether in print or on the web), make sure there is an accessible copy available upon request (e.g., digital, Braille, audio tape, or script of a video).
 9. Work with the proper technology staff at the ABA to make sure their website is accessible, and any future materials they place on the website are accessible.
 10. Support the Commission's Mentor Program, *infra*, to promote participation from both lawyers and law students with disabilities.
 11. Use the Commission's resources in identifying speakers and participants with disabilities for their programs, projects, and activities.
 12. Sponsor a lawyer-member with a disability to represent disability diversity at all of their meetings and the ABA meetings. The Section of Business Law's Diversity Clerkship Program and Business Law Fellow, Ambassadors and

Diplomat Program, as well as General Practice, Solo and Small Firm Division's Diversity Fellows Program are good examples.

13. Invite Commission members to speak at their events about Goal III, Commission programs, and Commission efforts to increase ABA membership.
14. Include lawyers with disabilities as speakers and panelists for their Mid-Year and Annual Meetings, programs, and CLE training.
15. Solicit lawyers with disabilities to write for their publications and promote articles about lawyers with disabilities or issues particularly pertinent to this group.
16. Seek the Commission's cooperation when attempting to secure grant money for disability diversity projects in the legal profession.

VIII. ABOUT THE COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW

For additional information on the following, visit the Commission's website at <http://www.abanet.org/disability>

A. LAW PROJECTS

Awards Ceremony and Reception

Each year, the Commission sponsors an award ceremony to honor the recipient of the Paul G. Hearne Award, and a reception for lawyers with disabilities. The reception is held during the

ABA Annual Meeting and is attended by ABA leaders, lawyers with disabilities, and other disability rights lawyers and advocates. The 2010 reception was held during the Annual Meeting in San Francisco. The 2011 reception will be early August in Toronto, Canada, and details on the reception will be released 4-6 weeks prior to the event.

Commission Co-Sponsorship of Amicus Briefs

The Commission joins other ABA entities, such as the Section on Individual Rights and Responsibilities (IR&R), in asking the ABA to submit amicus briefs in cases involving substantive areas of disability law and disability rights. In 2003, the Commission joined IR&R in successfully recommending that the ABA submit an amicus brief to the U.S. Supreme Court in *Tennessee v. Lane* (2004). The ABA brief, which was written with the assistance of IR&R and the Commission, urged the Supreme Court to uphold the Americans with Disabilities Act Title II against claims that it unconstitutionally impinges the states sovereign immunity rights under the Eleventh Amendment of the U.S. Constitution. The Supreme Court's decision supported the ABA's position.

The Commission also co-sponsored a request that the ABA submit an amicus brief to the Supreme Court in *United States v. Georgia* (2006) urging the Supreme Court to find a private right of action against the state for monetary damages under ADA Title II for violating rights covered by the Fourteenth

Amendment of the U.S. Constitution. The Court's decision supported the ABA's position.

Finally, the Commission co-sponsored requests that the ABA file amicus briefs to the Supreme Court in the case of *Panetti v. Quarterman* (2007) regarding the competency of defendants with severe mental disorders to be executed and in *Indiana v. Edwards* (2008) regarding the competency of a defendant to waive his right to counsel and represent himself in a criminal trial.

National Mentor Program for Lawyers and Law Students and with Disabilities

Since 2000, the Program has been pairing law students with disabilities with practicing attorneys (who may or may not have disabilities) based on mentees' preferences. In 2003, the Commission's Mentor Program received the Nation's Capital Area Disability Support Services Coalition's Award for "the Outstanding Commitment and Contribution by an Organization that Supports Students with Disabilities." The Program has over 120 active mentor-mentee relationships. Mentors are sources of guidance concerning law school, careers, and issues such as reasonable accommodations. The Commission welcomes students and lawyers from around the country to participate.

The Paul G. Hearne Award for Disability Rights

Each year, this Award is given to an individual who or organization that has performed exemplary service in furthering the

rights, dignity, and access to justice for people with disabilities. Paul G. Hearne was an activist, a philanthropist, and a leader for all persons with disabilities. The Commission awards the honor to one who carries on Hearne's vision and life work. The 2010 Award recipient was the Disability Rights Legal Center of Los Angeles, California. The Commission has a committee to help determine the recipient of the Award.

Committee on the Employment of Lawyers with Disabilities

This committee addresses issues related to attaining, employing, and retaining lawyers with disabilities. The committee worked in conjunction with the U.S. Equal Employment Opportunity Commission (EEOC) to host the First ABA National Conference on the Employment of Lawyers with Disabilities in 2006, and then-ABA President H. Thomas Wells, Jr., the Association of Corporate Counsel, and Minority Corporate Counsel Association to host the Second ABA National Conference on the Employment of Lawyers with Disabilities in 2009. The committee is planning a third national conference for May 2012.

To follow up on the Second National Conference, the committee oversees the program asking legal employers to sign the disability diversity pledge.

There is also a report that was published by the Commission after the Second National Conference. It contains material and speeches from the event and important information for law students and lawyers with disabilities. You

can download the free report at the website provided above.

Committee on Lawyers with Disabilities

This committee focuses on issues of concern to lawyers with disabilities and on ensuring full and equal participation in the legal profession by lawyers and law students with disabilities. It coordinates the National Mentor Program for Lawyers and Law Students with Disabilities and organizes the ABA Annual Meeting's reception for lawyers with disabilities (see above). In addition, in past years the committee has planned roundtables and conferences for lawyers and law students with disabilities, and has worked to establish a scholarship program for law students with disabilities. This committee also maintains a relationship with the National Association of Law Students with Disabilities.

Committee on Mental Disability Issues

This committee responds to the mental disability-related issues that affect individuals including detainees, children, criminal defendants, and war veterans. The committee planned the Commission's CLE program at the 2010 ABA Annual Meeting on *Miranda* rights and persons with mental impairments and other disabilities and will be involved with planning the 2011 Annual Meeting CLE, "International Legal Perspectives on Older Persons with Disabilities."

B. LEGAL PUBLICATIONS AND PRODUCTS

Since 1976, the Commission has published the *Mental & Physical Disability Law Reporter* and *Mental & Physical Disability Law Digest*, books, and articles. Publications meet the needs of all in the legal profession from part-time practitioners to federal judges.

Mental & Physical Disability Law Reporter **(Print and Online)**

For more than thirty years, the print version of the *Reporter* (six issues annually) has provided analyses of key disability law developments; coverage of leading state and federal court decisions, legislation, and regulations in twenty-two topics addressing both mental disability law and disability discrimination law; and articles by experts in the field. Topics include civil/criminal commitment and competency; Social Security, Medicaid, and Medicare; sexual offenders; Americans with Disabilities Act; employment; public services; public accommodations; housing/zoning; and education. The *Reporter* is available in print and online.

With the new *Mental & Physical Disability Law Reporter Online*, which contains over 12,000 entries, subscribers can search through continually updated disability law cases and legislation that have been summarized in the *Reporter* beginning in 2001. Subscribers can search by case name, subject area, jurisdiction, and year. In addition, subscribers can access and browse issues of the *Reporter*, dating back to

2005, as well as feature articles on key disability topics.

Mental & Physical Disability Law Digest

Used in conjunction with the *Reporter* or alone, the *Digest* provides a comprehensive summary and analysis of federal and state disability laws (with citations to cases, statutes, regulations, and books/periodicals) using the same twenty-two topics as the *Reporter*. Subscribers receive semi-annual updated sections reflecting legal developments of key federal/state cases and legislation six times a year. The *Digest* is available in print and online.

Equal Employment of Persons with Disabilities from a Legal Perspective: Federal and State Law, Accommodations and Diversity Best Practices **(forthcoming 2011)**

This book provides employers with sound business reasons for hiring and retaining persons with disabilities, along with specific recommendations on integrating them into the workplace while enhancing overall productivity for all employees. In this regard, four key legal perspectives are provided: an historical overview of the employment rights of persons with disabilities; a legal analysis of the broad range of federal and state laws prohibiting bias and discrimination based on disability, and the legal duty to provide reasonable accommodations; guidance on how to identify and implement accommodations and other types of assistances for persons with disabilities that enrich the entire workplace; and a discussion of disability diversity best practices in

the legal profession, including the benefits of formal and informal mentoring.

Lawyers Lead On: Lawyers with Disabilities Share Their Insights (March 2011)

This publication is a collection of letters from lawyers with disabilities that cover their experiences in becoming lawyers and practicing law. Authors have various types of disabilities and come from various sectors of the legal profession.

Civil Mental Disability Law, Evidence and Testimony: A Comprehensive Reference Manual for Lawyers, Judges and Mental Disability Professionals (2010)

Civil mental disability law touches on many distinct subject areas. Accordingly, this comprehensive reference manual is divided into seven parts with 27 chapters. The extent to which each of these legal matters involving the rights of persons with mental disabilities is covered depends largely on how much litigation and legislation a particular subject has generated, as well as its historical importance. The book concludes with a glossary of key terms, definitions, and U.S. Supreme Court cases; an index; and a table of cases.

For more information visit:
<http://www.abanet.org/abastore/index.cfm?fm=Product.AddToCart&pid=4410210>

Criminal Mental Health and Disability Law, Evidence and Testimony: A Comprehensive Reference Manual for Lawyers, Judges and Criminal Justice Professionals (2009)

This Reference Manual examines two interrelated aspects of criminal law—mental health and disability discrimination—from the points of view of lawyers, judges and other professionals within the criminal justice system. The manual builds on established resources within the ABA, including the *Mental & Physical Disability Law Reporter*, *Mental Disability Law, Evidence and Testimony* and *Disability Discrimination Law, Evidence and Testimony*. It synthesizes the best and most recent information at the ABA on mental health and discrimination law that specifically pertains to criminal justice matters. It also references the ABA's *Criminal Justice Mental Health Standards*.

For more information visit:
<http://www.abanet.org/abastore/index.cfm?fm=Product.AddToCart&pid=4410209>

Disability Discrimination Law, Evidence and Testimony: A Comprehensive Reference Manual for Lawyers, Judges and Disability Professionals (2008)

This Reference Manual analyzes federal and state disability discrimination laws in six major areas (i.e., employment, public services, public accommodations, telecommunications and the Internet, housing and zoning, and education); summarizes the history of disability discrimination law; examines the relationship between attorneys and disabled clients; discusses expert evidence and testimony in disability discrimination cases; and includes appendices of the laws in the fifty states plus D.C. covering the six major areas of disability

law, as well as a listing of Supreme Court cases addressing disability law.

For more information visit:

<http://www.abanet.org/abastore/index.cfm?section=BestSellers&fm=Product.AddToCart&pid=4410202&added=1>

C. ONLINE PROJECTS AND FEATURES

The Commission's website includes a listing of all available Commission publications, excerpts from the current issue of the Reporter, a state-by-state directory of lawyers practicing disability law, and a listing of disability lawyers, law firms, federal agencies, and organizations. The website also highlights Commission news and special projects, in particular the activities of the Subcommittee on Lawyers with Disabilities.

National Law School Disability Programs Directory

This first-of-its-kind online directory contains the best available information collected by the Commission from ABA-accredited law schools concerning their disability related programming, such as disability support services, curricular and co-curricular options for disability law and disability rights, and relevant clinical programs.

Online News and Social Media Tools

The Commission hosts several online tools to help keep lawyers and law students with disabilities connected and up-to-date on recent

developments in disability law and news. There is a live Twitter feed, summaries and analysis on ground-breaking legal developments by staff, and groups to join on Facebook and LinkedIn. The LinkedIn group has a job board for legal positions related to disability law and disability rights.

ABA Lawyer Spotlight

Each month the Commission highlights an attorney with a disability who is an asset to the profession. Each attorney interviewed provides a unique point of view for those with disabilities in the profession.

Disability Discussion Docket (3D)

A free e-mail list that serves as a means of distribution for news, events, and information regarding disability law and disability rights and as a discussion forum for various matters related to lawyers and law students with disabilities.

Technical Assistance and Referrals

If you are a lawyer or law school who wants to register for the databases, a lawyer with a disability, or a lawyer who practices disability law, email cmpdl@abanet.org or call 202-662-1570.

D. COMMISSIONERS

Katherine H. O'Neil, Commission Chair

Katherine H. O'Neil is a mediator and arbitrator in civil and commercial matters in Portland, Oregon. She is a member of panels of FINRA, the Oregon Appellate Settlement Conference, and the Multnomah County Circuit Court Arbitration Panel. A member of the ABA since 1977, Katherine has served in many roles. She has been a member of the Standing Committee on Gavel Awards; the Latin American Law Initiative Council Advisory Committee; the Bar Services Committee; the Commission on Women in the Profession; and the ABA Board of Governors.

Joan M. Durocher, Chair, Committee on ABA Goal III

Joan M. Durocher is a Senior Attorney/Advisor at the National Council on Disability in Washington, DC, an independent federal agency charged with advising the President and Congress about the broad spectrum of issues of importance to people with disabilities. Ms. Durocher is also the Designated Federal Official for International Watch, a Federal Advisory Committee tasked with advising on the development of policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the ADA. Ms. Durocher has a Bachelor of Arts degree from Michigan State University and received her law degree from the University of Maryland, where she was awarded an Asper Fellowship and

received the BARC Community Service and Leadership Award for her work at the Maryland Disability Law Center in Baltimore. She is a member of the State Bar of Michigan and lives in Vienna, Virginia.

Carrie G. Basas, Member

Carrie G. Basas is an assistant law professor at the University of Tulsa in disability rights, advanced constitutional law, criminal law, and professional ethics. Before coming to Tulsa, she was a visiting assistant professor at Penn State-Dickinson School of Law and a visiting researcher at the University of Virginia. Her research interests include disability law, employment discrimination, the legal profession, food and animal law, and feminist legal theory. In addition to publications in national law journals, she is currently writing a disability rights law textbook for Carolina Academic Press. She is one of the first women in the U.S. with a visible disability to hold a tenure-track position teaching law. In 2001, the Ethel Louise Armstrong Foundation recognized her for "changing the face of disability" and in 2002, the American Association of People with Disabilities named her as an emerging leader in disability rights. In 1998, she became a national Truman Scholar.

Charles S. Brown, Member

Charles Brown currently administers the Volunteer Lawyers for the Blind project sponsored by the American Action Fund for Blind Children and Adults. Mr. Brown also

serves as a legal advisor to the President of the National Federation of the Blind. He took on these two tasks after completing a 36-year legal career with the United States Government. During his Federal service, Mr. Brown was the Ethics Official for the National Science Foundation and played a major role in assuring the integrity of the NSF's merit review process. He previously worked for the Solicitor's Office at the US Department of Labor, in its Legislation and Legal Counsel Division, where he was the Department's Special Projects Counsel. While serving the federal government, Mr. Brown received numerous awards,

Honorable Judge Richard S. Brown, Member

Chief Judge Richard S. Brown sits on the Wisconsin Court of Appeals, District II, located in Waukesha. He was first elected to the Court of Appeals in 1978. He was chairperson of the American Bar Association Commission on Physical and Mental Disability Law from 1995 to 1998 and was also co-chair of the ABA Section of Individual Rights and Responsibilities Committee for the Rights of Persons with Disabilities. He was a member of the Board of Directors of the American Judicature Society from 1997 – 2003. He has held various committee memberships within the National Center for State Courts, the ABA and the Wisconsin State Bar. He has been a faculty member of the National Judicial College since 1991 and presently teaches Decision Making Skills.

Ira A. Burnim, Member

Ira Burnim is a magna cum laude graduate of Harvard Law School, who joined the Bazelon Center's legal staff in 1988 and is now legal director. Formerly, Ira has served as legal director of the Children's Defense Fund, senior attorney of the Southern Poverty Law Center and law clerk to U.S. District Judge Frank M. Johnson, Jr. He has litigated precedent-setting cases on the Americans with Disabilities Act, mental health and child welfare system reform, and managed health care. He has also been active in Supreme Court cases, spearheading the disability community's efforts in *Olmstead*, representing the plaintiffs in *Garrett*, and playing a coordinating role in other cases, including *Lane*. Ira serves on the board of advisors of Mental Disability Rights International and the Mental Disability Advocacy center in Budapest, and the boards of the American Civil Liberties Union of Maryland and the National Association for Child Protection Reform.

Eric Y. Drogin, Member

Eric Y. Drogin is a Fellow of the American Academy of Forensic Psychology, a Diplomate and former President of the American Board of Forensic Psychology, and a Diplomate of the American Board of Professional Psychology. Dr. Drogin is a former Chair of the American Psychological Association's Committee on Professional Practice and Standards, a former Chair of the APA's Committee on Legal Issues, a former Chair of the APA's Joint Task Force with

the American Bar Association, and a former President of the New Hampshire Psychological Association. He serves on the faculties of the Harvard Medical School (as a member of the Program in Psychiatry and the Law, and on the staff of the Forensic Psychiatry Service, in the Department of Psychiatry at Beth Israel Deaconess Medical Center), the Harvard Longwood Psychiatry Residency Training Program, and the University of Louisville School of Medicine. Dr. Drogin received his Doctor of Philosophy (Ph.D.) degree in Clinical Psychology from Hahnemann University and his J.D. from the Villanova University School of Law. He has authored or co-authored over 150 legal and scientific publications to date and has lectured around the world on related topics.

Howard J. Fulfrost, Member

Howard J. Fulfrost is a founding partner in the Los Angeles office. Mr. Fulfrost is a recognized legal leader in special education and student-related matters; and, in particular, the legal obligations of local educational agencies to students with disabilities. He has been an education attorney since graduating from law school. In that capacity, he represents and advises school districts, county offices of education, and special education local plan areas with regard to all aspects of special education law and practice. Whether assisting personnel to prepare for a difficult IEP team meeting or providing one-on-one coaching to a new special education administrator, Mr. Fulfrost enjoys proactively collaborating school districts. A popular presenter, Mr. Fulfrost is asked to speak

throughout the country on a variety of special education legal topics.

Honorable Judge Kristin Booth Glen, Member

Judge Glen is a graduate of Stanford and Columbia Law School, She clerked for the U.S. Court of Appeals for the Second Circuit, and was in private practice for 10 years, doing civil rights, women and prisoners' rights, and mental health litigation until she was elected a judge in New York in 1980. She also taught at NYU, Hofstra and New York Law Schools, and in 1995, after service on both trial and appellate courts, left the bench to be the third Dean at the City University of New York School of Law. In 2005 she stepped down from the deanship and was elected Surrogate Judge in New York County. She has been active in aging issues for two decades, both domestically, including service, first as a member, then as Chair of the ABA Commission on Law and Aging, as a Board member of the Brookdale Center on Aging of Hunter College, and internationally, through her work with Global Action on Aging. Her special area of expertise is guardianship, and she currently has jurisdiction over guardianship of people with intellectual disabilities which has led her to efforts to reform applicable laws in New York and nationally. She has written and lectured widely and is the recipient of many awards including Columbia Law School's Lawrence Wien Prize for Social Responsibility, and the New York State Bar Association's Ruth Schapiro Award for Service to Women.

P. Faye Kuo, Member

P. Faye Kuo is an attorney with Advocacy, Incorporated, the state of Texas' protection and advocacy agency. Located in Austin, Texas, her primary focus is on improving communication access through advocacy and litigation efforts for Texans who are deaf or hard of hearing in the areas of employment law and access under Titles II and III of the Americans with Disabilities Act, as well as under other federal and state law. She is currently a member of several legal and non-legal disability organizations. Her previous experiences include working with the Illinois Attorney General's Disability Rights bureau on general access issues and clerking for an Illinois state judge.

Alan S. Rachlin, Member

Alan S. Rachlin is a Principal Attorney in the Office of General Counsel of the New York State Insurance Department, primarily dealing with health insurance. Prior to joining the Office of General Counsel, in March 1976, Mr. Rachlin was an Insurance Examiner in the Insurance Department. Mr. Rachlin is presently a Vice Chair, having previously served as Chair, of the Insurance Regulation Committee of the Tort Trial and Insurance Practice Section (TIPS) of the American Bar Association (ABA), a member of the Task Force on Federal Involvement in Insurance Regulation Modernization of TIPS, and a member of the Health Law Committee of the New York City Bar Association. He is also a member of the New York State Bar Association and the New York

County Lawyers Association. Mr. Rachlin received a B.A. in 1965 from City College of the City University of New York, a MPA in 1971 from Baruch College of the City University of New York, and a J.D. in 1975 from New York Law School.

Mildred A. Rivera-Rau, Member

Mildred Ann Rivera-Rau is an Attorney Advisor in the Equal Employment Opportunity Commission's Office of Federal Operations, Agency Oversight Division which oversees and provides training, technical assistance and guidance to federal agencies on EEOC Management Directive 715 and federal civil rights laws. In this position Ms. Rivera-Rau also evaluates federal agencies' performance to ensure effective and efficient implementation of EEO programs, policies and procedures. Ms. Rivera-Rau is a Board Member of the National Association of Blind Lawyers. She was honored by the National Federation of the Blind of Maryland with its highest award—the Kenneth Jernigan award—for her many years of volunteer service. She is of Puerto Rican descent having been raised in upstate New York and Guaynabo, Puerto Rico.

Angela J. Scott, Member

Angela Jean Scott is a Civil Rights Attorney, a dedicated public servant and an avid community volunteer. For over five years Ms. Scott has served as Attorney-Advisor for the Office of the General Counsel at the United States Department of Health and Human

Services. In this capacity, she helps to ensure that individuals are not discriminated against on the basis of race, color, national origin, age, disability, sex and religion. As a student, she founded her college NAACP chapter and served as a volunteer with the American Civil Liberties Union. Ms. Scott is very active in bar and professional organizations. She is currently a 2009-2019 American Bar Association Young Lawyers Division Scholar. She has served as Secretary of the Maryland Black Women's Bar Association and she sits on the Judicial Appointments Committee of the Women's Bar Association of Maryland. Additionally, she is a past Fellow and serves on the Advisory Committee of the Leadership Academy of the Maryland State Bar Association for the past three years. In 2007, she became a Maryland Bar Foundation Fellow.

Walter T. Smith, PharmD., Member

Walter T. Smith graduated from the Saint Louis College of Pharmacy in 1994 with a Doctor of Pharmacy degree. Upon graduation, Tommy served as the Director of Operations for Corum Health Services, Inc., a long-term care pharmacy in Saint Louis, Missouri. In order to expand his interests in the areas of healthcare regulation and policy and disability law, Tommy went back to school to study law. Tommy earned his J.D. in 2005, along with a Certificate in Health Law, from the prestigious Center for

Health Law Studies at Saint Louis University School of Law. Tommy joined the faculty of the University of Florida College of Pharmacy in July 2008. Tommy's areas of interest include federal pharmacy regulations, clinical ethics, pharmacists and other healthcare professionals with disabilities, and ethical behaviors in students and healthcare professionals.

Janice L. Ta, Member

Janice L. Ta is a recent graduate of Yale Law School. Janice was born on a Vietnamese refugee camp in Pulau Bidong, Malaysia where she contracted polio as an infant. She became actively involved with disability rights while she was an undergraduate, directing the Stanford Disability Speaker's Bureau to raise awareness of mobility and access issues on campus. From 2006-2007, she worked as the Program Assistant and the interim National Coordinator for Disability Mentoring Day at the American Association of People with Disabilities. She served as President of the National Association of Law Students with Disabilities from 2009-2010, after two years as the organization's Chief Financial Officer.

2011 Goal III Report

ACKNOWLEDGEMENTS

The Commission thanks the Commission on Racial & Ethnic Diversity, the Commission on Sexual Orientation and Gender Identity, and the Commission on Women in the Profession, for their collaborative effort with the ABA's Goal III initiative. Thank you to all of the ABA departments, Divisions, Sections, and Forums that contributed data for this report. A special word of appreciate to the Young Lawyers Division who helped develop the Goal III data collection sheet for this year's process.

ABA COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW

CHAIR

Katherine H. O'Neil

Commission on Youth at Risk

Alyssa K. McCorkle

MEMBERS

Carrie G. Basas

Charles S. Brown

Hon. Judge Richard S. Brown

Ira A. Burnim

Eric Y. Drogin, Ph. D.

Joan M. Durocher

Howard J. Fulfrost

Hon. Judge Kristin Booth Glen

P. Faye Kuo

Alan S. Rachlin

Mildred A. Rivera-Rau

Angela J. Scott

Walter T. Smith, PharmD.

Janice L. Ta

General Practice, Solo and Small Firm Division

Scott C. LaBarre

International Law Section

Edmund G. Howe, M.D.

Labor and Employment Law Section

Gregg M. Formella

Law Student Division

Rina R. Shah

Young Lawyers Division

Alexander P. Ryan

--

--

LIAISONS

Board of Governors

James F. Carr

Business Law Section

Margaret M. Foran

COMMISSION STAFF

John W. Parry, Director

Amy L. Allbright

F. Philips Gilliam, Jr.

William J. Phelan, IV

Michael J. Stratton

REFERENCES

Information and data from the American Bar Association is on file with the Commission.

- Cornell University, Rehabilitation Research and Training Center on Employment Policy for Persons with Disabilities, *2008 Disability Status Report United States*, 2010, available at: <http://www.ilr.cornell.edu/edi/disabilitystatistics/>
- Cornell University, Rehabilitation Research and Training Center on Employment Policy for Persons with Disabilities, Presentation on *The Employment of Americans with Disabilities Survey*, 2010 (on file with Commission)
- Cornell University, Rehabilitation Research and Training Center on Employment Policy for Persons with Disabilities, *2009 Progress Report on the Economic Well-Being of Working-Age People with Disabilities*, Sept. 2009, available at: <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1283&context=edicollet>
- Fremstad, Shawn, Center for Economic and Policy Research, *Half in Ten: Why Taking Disability into Account is Essential to Reducing Income Poverty and Expanding Economic Inclusion*, Sept. 2009, available at: <http://www.cepr.net/documents/publications/poverty-disability-2009-09.pdf>
- Kaye, H. Stephen, *The Impact of the 2007-09 Recession on Workers with Disabilities*, Monthly Labor Review, 19, Oct. 2010, available at: <http://www.bls.gov/opub/mlr/2010/10/mlr201010.pdf>
- Kessler Foundation/National Organization on Disability, *Survey of Employment of Americans with Disabilities Executive Summary*, Oct. 2010, available at: <http://www.2010disabilitysurveys.org/octsurvey/pdfs/surveyresults.pdf>
- Kessler Foundation/National Organization on Disability, *The ADA, 20 Years Later, Executive Summary*, July 2010, available at: <http://www.2010disabilitysurveys.org/pdfs/surveysummary.pdf>
- National Association for Law Placement, *Jobs & JDs: Employment and Salaries of New Law Graduates, Class of 2009*, 2010
- Shapiro, Joseph, *Job Crunch Even Harder on People with Disabilities*, National Public Radio, Nov. 27, 2009, available at: <http://www.npr.org/templates/story/story.php?storyId=120852418>

2011 Goal III Report

- United States Department of Labor, Bureau of Labor Statistics, *Economic News Release, Persons with a Disability: Labor Force Characteristics Summary*, and accompanying Table 3, Aug. 25, 2010, available at: <http://www.bls.gov/news.release/disabl.nr0.htm>
- Weiss, Debra Cassens, *Largest Law Firms Still Shrinking, Shedding 1,400 Lawyers This Year*, ABA Journal, Nov. 8, 2010
- Weiss, Debra Cassens, *Legal sector loses Jobs Two Months in a Row*, ABA Journal, Dec. 6, 2010
- Yslas, Stephen D., *Making Diversity an Enduring Core Value*, National Law Journal, June 14, 2010