

Disability Rights Committee Newsletter | Winter 2017 Vol. 1 No. 2[©]

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MESSAGE FROM THE CHAIR

Dear Disability Rights Committee Members:

As a new YLD Committee, we are off to a great start! Here are a few updates on our activities over the last three months:

1. The Disability Rights Committee (“DRC”) submitted a proposal for a resolution concerning accessibility within the YLD for persons with disabilities, and was accepted. The resolution will be presented at the YLD Assembly at the upcoming ABA Midyear meeting on February 4, 2017.
2. The DRC also submitted a program proposal for an in-person CLE event at the Midyear Meeting, which was accepted. The CLE panel discussion, entitled “Disability and Due Process: Equal Access to the Judicial System for People with Disabilities,” will be held on February 3 from 10:30-11:30 AM. Speakers will be Christopher Stuart, a blind federal law clerk in Kentucky; Matthew Dietz, Director of Litigation at Disability Rights Independence Group, Inc.; Sheryl Eisenberg-Michalowski, Deaf Rights Liaison/Advocate and Co-Director of the Eisenberg & Baum Law Center for Deaf and Hard of Hearing; and Andrew Rozynski, Partner at Eisenberg & Baum, LLP and Co-Director of the Eisenberg & Baum Law Center for Deaf and Hard of Hearing. These panelists will discuss the various barriers within the judicial system facing persons with disabilities such as lack of readers for the blind, access to court documents, technology in the courts, lack of interpreting services for the deaf, physical access to the courts, full and equal access to Miranda rights, and police misconduct. The panelists will recommend policy changes that can overcome these barriers, and discuss landmark cases (such as *Tennessee v. Lane*) and ongoing key litigation.
3. The Affiliate publication is publishing a piece on the DRC in its upcoming issue. The DRC Chair, Deepa Goraya, recently spoke to its associate blogger about the purpose of this new Committee, projects it is currently working on, and how members can get involved.

The DRC is always looking for 101/201 practice series articles throughout the year. 101/201 Practice Series articles are online resources for new lawyers covering basic training in both substantive and practical aspects of law practice and are posted to our Committee website. These articles are typically longer than the short articles contained in Newsletters and should be approximately 600 words. While Practice Series articles are longer, and tend to be more substantive in nature, it is important to note that these are not “law review” articles—they are simple, short articles that discuss important substantive and/or practical aspects of law practice. They can vary in terms of topic, but should have some nexus to the work of the DRC.

If you wish to submit a newsletter article or 101/201 article, please email me at deepa_goraya@washlaw.org. Example 101/201 articles can be found here: http://www.americanbar.org/groups/young_lawyers/publications/the_101_201_practice_series/women_minority_lawyers.html; http://www.americanbar.org/groups/young_lawyers/publications/the_101_201_practice_series.html.

The DRC welcomes members to get involved in other ways. You can submit a proposal for another resolution, be a speaker for a CLE or teleconference, submit topics you want to be addressed by the DRC, etc.

For any questions or to discuss how to get involved, please email me at deepa.goraya@gmail.com.

Sincerely,

Deepa Goraya
Chair, Disability Rights Committee

ARTICLES

Disability Rights and the Next President: A Perspective on What the Future May Hold

By Seth A. Nadler

With the inauguration of Donald Trump as the 45th President of the United States just around the corner, many disability rights activists are wondering what the future of the Americans with Disabilities Act (ADA) will hold. Currently, the Supreme Court only has eight Justices and it will be up to President Trump to appoint the ninth.

The late Justice Antonin Scalia, who often took a conservative view towards disability rights, held the now vacant seat. Justice Scalia adhered to a strict originalist approach when considering a case. This approach had serious ramifications for the ADA¹ and disability law broadly.

One of Justice Scalia's more notable cases involved the issue of whether golf courses constituted a place of public accommodation.² Golfer Casey Martin sued the Professional Golfers Association (PGA) stating that the PGA must accommodate his disability by allowing him to use a golf cart.³ The Court held, "Title III of the ADA, by its plain terms, prohibits the PGA from denying Martin equal access to its tours on the basis of his disability and that allowing Martin to use a cart, despite the walking rule, is not a modification that would "fundamentally alter the nature" of the game."⁴ Justice Scalia vigorously dissented stating, "The Court ultimately concludes, and it will henceforth be the Law of the Land, that walking is not a 'fundamental' aspect of golf."⁵

At this point it is unclear who is on the short-list for Justice Scalia's seat but names that have been floated include Robert Young, Margaret Ryan, Charles Canady, and Keith

¹ 42 U.S.C 12101 (b) (3)-(4) (1994).

² See A GUIDE TO DISABILITY RIGHTS LAWS 1 (2009) (available at <https://www.ada.gov/cguide.pdf>).

³ See *PGA Tour, Inc. v. Martin*, 532 U.S. 661 (2001).

⁴ *Id.* at 690.

⁵ *Id.* at 702-03 (Scalia, J., dissenting).

Blackwell among others.⁶ President Trump's pick will most likely maintain the staunch conservatism of his or her predecessor. While the future of disability rights remains uncertain, civil rights attorneys across the country will be prepared to ensure that there is equal access for all.

Seth is an Associate at the firm Imbesi Law P.C. where he practices Employment Law and Sports & Entertainment Law. Previously, he was an Associate at the firm of Eisenberg & Baum LLP as a civil rights litigator in the Deaf Law Department.

Breaking into the Profession: The Challenges of Networking and Interaction

By Cody J. Davis

A firm handshake, decent social skills, and social opportunity are key components for success as a young lawyer or law student who seeks to advance his or her career. However, it can be a difficult task for anyone, let alone a person with disabilities, who may experience awkwardness and social isolation. A blind individual may find it difficult to network and mingle at large events, such as at a bar association luncheon or CLE, as he or she may be unable to easily locate and identify new people within a room and make eye contact.

Individuals with speaking disabilities or those who are deaf or hard of hearing may find the simplest communication to be a barrier to networking. An individual with an autism spectrum disorder may misunderstand typical social cues.

Finally, those with mobility impairments may find the circumstances of many networking opportunities, such as the location of the activity, a hindrance to their full participation. By exposing these issues to the legal community, we hope to foster a deeper understanding of the social barriers faced by our disabled colleagues, eliminate the element of surprise or awkwardness, and encourage more social interaction and inclusion of attorneys and law students with disabilities in both professional and social activities.

Cody J. Davis is a second-year law student at Campbell University School of Law and a graduate student studying public administration at N.C. State University. Prior to law school, he studied political science, philosophy, and criminology. His practice areas of interest include criminal law, government, and civil rights.

⁶ See <http://www.npr.org/2016/09/23/495216645/donald-trump-unveils-new-more-diverse-supreme-court-short-list> (last visited January 17, 2016 at 6:56 P.M).

NEWS AND ANNOUNCEMENTS

1. Events.



The YLD is hosting its Mid-Year Conference on February 2-5 in Miami, Florida. More information about registration and accommodations is available at: http://www.americanbar.org/groups/young_lawyers/events_cle.html.

2. Spread the Word!!

a. 2017-2018 YLD Scholarships. YLD scholarship application process opened on January 1. Please spread the word to interested young lawyers and invite them to apply. The YLD Scholarship program provides partial conference funding, publishing opportunities, and special assignments to Division boards, teams and committees. Scholarship categories include Solo, Small Firm, and General Practice Division (GPSolo), Government, Public Sector and Military Lawyers, and Minorities in the Profession. Deadline for applications is April 15. The application can be found here: http://www.americanbar.org/groups/young_lawyers/awards_scholarships/scholarship_program.html.

b. Leadership Opportunities. The Division encourages you to apply for a 2017 - 2018 YLD leadership appointment. Your skills, passion, and perspective are essential to building a vibrant, inclusive, and multicultural corps of volunteer leaders on our ABA YLD committees, boards, and teams. Only through your continued involvement can we engage and serve our young lawyer members, affiliate organizations, and the public. Additional information can be found here: http://www.americanbar.org/groups/young_lawyers/about_us/appointments.html.

c. The Commission on Disability Rights is co-sponsoring a webinar entitled “Ethics and Equal Access to Justice in All Languages: Title VI and Consideration of Title II.” Additional information can be found here:

<http://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=263195212>.

3. Save the Date.



The 2017 YLD Spring Conference will be held May 4 – 6 in Montreal Quebec, Canada. Join us to earn CLE credit, develop your career, and network with young lawyers from across the U.S., Canada and the world. Registration information will be available soon.

4. Get Involved.

a. Call for Programming Ideas. Got an idea for a live program, teleconference, or webinar? We want to hear it! The DRC is accepting programming ideas on an ongoing basis. Please send suggestions for programming to Deepa Goraya, Deepa.goraya@gmail.com

b. Writing Opportunities. The Disability Rights Committee is accepting submissions on an ongoing basis to be consider for publication in the newsletter or as 101/201 articles. Articles should be 150 to 500 words and report new, exciting events of interest to lawyers with disabilities or young lawyers in general. Topics may encompass recent events in the area of disability rights, relevant case decisions, diversity news, emerging trends in disability rights, or general topics of interest in this field of practice or study to young lawyers. Please send submissions or inquiries to Seth Nadler at SethA.Nadler@gmail.com.