



Hon. Michael Ryan
Bruce Gardner
Tim Eigo, Editor, *ARIZONA ATTORNEY*
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Ready, Willing & Able

Practicing law is tough work.

Long hours, voluminous files. And don't forget billing.

Do these rigors close law practice doors to anyone who is not fully able to participate? Historically, lawyers with disabilities have found those doors shut tight.

But, say our roundtable panelists, things have changed—somewhat. More lawyers with disabilities work in private practice than ever before. And this past year saw the launch of the Bar's Task Force on Persons With Disabilities in the Legal Profession.

Task force survey results and recommendations will come later. But we invited some lawyers and nonlawyers—with and without disabilities—to talk about the challenges of practice.

Bill Scott: I have the honor and privilege of being the moderator of this roundtable, and I am really flattered to have this opportunity. Let's begin by introducing ourselves.

Nancy Philippi: I'm with the law firm of Quarles & Brady Streich Lang. I do recruiting and lawyer professional development for the firm, and I do it for all of our offices on a national basis, in Wisconsin, Illinois, Florida and Arizona. I am a nonlawyer, so I'm glad I'm next to another one, Bill.

Hon. Michael Ryan: I'm with the Arizona Supreme Court. Before that, I was with the court of appeals for over five years, and I was a trial judge for more than 10 years on the superior court. I am an attorney.



MODERATED BY BILL SCOTT
PHOTOGRAPHS BY MICHAEL MERTZ



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Bruce Gardner: I'm an attorney with Pinnacle West Capital Corporation, the parent company of APS. I've been there for 17 years, and before that, I was with Streich Lang.

Leslie Cohen: I am the director of the Arizona Center for Disability Law, which is a nonprofit public interest law firm dedicated to protection and advocacy for people with disabilities. I've been the director there for about seven years. Before that, I was a staff attorney at our predecessor organization, and before that I was in private practice.

Suzanne Scheiner: I'm an associate at Brown & Bain. I do primarily trademark and copyright litigation, as well as complex commercial litigation.

Randall Howe: I am the Chief Counsel of the Criminal Appeals Section of the Arizona Attorney General's Office. I am an attorney.

Scott: Welcome. We will be discussing four basic questions. We will discuss hiring difficulties for lawyers and law students with disabilities. Number 2, promotion and retention issues once hired. Number 3, reasonable accommodations issues and how you feel about them, what your experiences may have been. Finally, accessibility issues having to do with the physical plant, the actual structural issues that you may encounter, if any at all.

The underlying theme really has to do with your attitudes and your experiences with respect to other people and how they perceive



you, or how you perceive yourself in the context of acting as an attorney.

With that, the first question: hiring difficulties for lawyers and law students with disabilities. What are the opportunities for law students in today's economy, and in light of the Americans With Disabilities Act (ADA)?



as the same capabilities as everybody else. I think there are still problems, but this is a good time to be entering the work force.

Scott: So your saying that's not just the party line, that it's really happening? Law students are finding opportunities?

Cohen: I certainly think there are still problems, and we have discussed them at length in [the State Bar Task Force on Persons With Disabilities in the Legal Profession]. But I think it's probably a lot better than it was 10 or 15 years ago. But we still have a lot of work to do.

Howe: I have been working as an attorney since before the ADA, and in one of my interviews for a firm, one of the interviewers asked me how I would get around my disability in the courtroom. Of course I was young and stupid, and I did not know that that was not an appropriate question. I think lawyers interviewing an attorney today would not ask a question like that.

Gardner: I too have been practicing law longer than we have had the ADA, and I for one believe that there are nearly as many problems caused by the Americans With Disabilities Act as solutions provided by the ADA. I think it's important as an individual to sell yourself when you're interviewing and therefore, I think it's important to anticipate questions and anticipate

chance of being hired.

Scott: Is that to say that the ADA isn't really necessary?

Gardner: I wouldn't go so far as to say that, but the ADA and, maybe more specifically, the way it is interpreted and the way it is enforced, creates problems.

Scott: Suzanne, on this panel you probably are the most recent beneficiary of the ADA. What are some of your thoughts?

Scheiner: One of the challenges the ADA has is because it's an individualistic determination. Often, if a person or a firm is going to have problems with reasonable accommodations, you kind of want to know. Because, yes, the ADA requires a firm or an employer to give you reasonable accommodations, but in my experience, if you're going to have to argue with the employer about why you're entitled to reasonable accommodations, you don't want to work there.

So the ADA opens the conversation for people that did not have opportunities before, but because the ADA is so individualistic, you still have to be careful and look for an environment that is not only accepting of the person with a disability but welcomes him or her.

Scott: Justice Ryan, no one is going to talk to your wheelchair; I think that you present a strong enough stature as a person that you're not going to allow that to happen. What kind of experiences have you had along these lines?

Ryan: As Bruce and Suzanne touched upon, you have to come across as a person, not as a disabled person. You have the same desires,

The challenge for us is to try to get beyond the assumptions, the stereotypes.

—Hon. Michael Ryan

Cohen: I don't think that there could be a better time to be a lawyer with a disability entering the work force. I think that the ADA has had a great effect on our community in general in acknowledging that people with disabilities have the same rights as well

concerns, and, in a natural and logical way, address those issues and concerns, and not rest on the fact that due to the ADA, they're not allowed to ask those kinds of questions. If they've got the questions, they ought to be answered if you want to have a legitimate

needs and problems they do. You have the same interests. They make us more than a one- or two-dimensional person. You've got to convey that in conversation.

Scott: What should law students know?

Scheiner: "Selling yourself" is particularly



Tales From the Career Trenches

BY MARY N. BIRMINGHAM

I remember 15 years ago when a disabled law student first visited my office for career counseling (at another law school). I was uncomfortable and fearful I would make a mistake, say or do the wrong thing. You see, I was from a generation of lawyers who had never worked or studied with a person in a wheelchair, or a deaf or blind person. But the law student was much more savvy than I, and he immediately put me at ease. We eventually talked about why he was in a wheelchair. He had "brittle bone" disease, and when he was born, virtually every bone in his body was broken.

When I moved to Tucson in 1995 to join the University of Arizona, I found more disabled students in one class than I had in eight years at my previous school. Typically two to four disabled students enroll at the UA each year, and I thought you might be interested in hearing a few of their stories.

Tom Collins, a 2001 graduate, joined the Army right out of high school. After he finished his tour, he was preparing for a career in law enforcement. But while riding as a motorcycle passenger, he was struck by a bus on a residential street. With his top five percent ranking in law school and membership on law review, he gathered eight interviews with major firms during the fall of his second year. Eight interviews—no callbacks.

Tom eventually got a job shortly before graduation as a law clerk for Judge Steven C. Villarreal in the Juvenile Division. One of Tom's classmates—and later wife—Charity Marr, was a ballet dancer with the Utah Ballet when a balcony fall changed her life at age 18. She too is a judicial clerk and is a wheelchair racer.

Military casualties also account for some of our student disabilities. Michael Somsan, a May 2002 graduate, was blinded in the Gulf War and had a distinguished military career. Michael was also in the upper ranks of his class in the fall of his second year, and after several interviews with firms and agencies, he received one offer with the U.S. Postal Service General Counsel's Office for summer work. He graduated with two degrees (J.D. and master's in public administration), but has yet to find employment. He was sworn into the Arizona Bar in October 2002.

Jim Eustace, 1999 graduate, lost the use of his legs while fighting in the Persian Gulf War. Jim, too, had difficulty finding employment after graduation, but through a VA grant that paid his employer one half of his salary for a year, he landed a job with a Phoenix firm. Jim has since returned to Tucson and is now with the City of Tucson Public Defender's Office.

Others are disabled from birth, like deaf attorney Alan Amann (a 1998 graduate). Alan's parents were deaf as well, and he attended Gallaudet University for his undergraduate work. I will never forget preparing for my first meeting with Alan, wondering how will I communicate with him? Will we write everything down, or will a sign interpreter be coming with him? Alan, of course, read lips perfectly and his speech is nearly as perfect. He is in Phoenix working for the Arizona Attorney General's Office doing criminal appellate work.

Since 1995, I have known only two disabled students who found work with a law firm immediately after graduation. It may be a coincidence. It may be the result of the small number of disabled students in law school, both at the UA and nationwide. It may be a result of a lack of understanding that disabled students and lawyers can do the job.

Each year 38,000 to 40,000 law students graduate from 184 ABA-accredited law schools. Approximately one percent of that total law student population is disabled. Of all the employment classifications reported by Washington, DC-based National Association for Law Placement for the class of 2001, the category of "disabled graduates" ranked the lowest in percentage employed six months after graduation. (See "Jobs & J.D.'s: Employment and Salaries of New Law Graduates Class of 2001," at www.nalp.org).

The State Bar Task Force on Persons with Disabilities in the Legal Profession will continue to address these issues through surveys and educational programs. We want to provide ways to remove barriers to the hiring process through mentoring, education and other positive programs. In the process, we hope to expand opportunities for hiring and retaining disabled students and attorneys in Arizona, and in the process serve as a model for the country. We need your help, however. Anyone wishing to volunteer with this project should contact me or the co-chairs of the Task Force—Justice Michael D. Ryan and Sally Simmons, Esq., of Brown & Bain in Tucson. ▀

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important for disabled law students to develop interviewing skills and how to put the other person at ease with the fact that you have a disability.

I have been disabled all my life, and one of the things that struck me is that when you meet people who are not disabled, often you are the first person they have ever met with a disability. So one of the functions that falls to you is to make the person comfortable with you as a person, and make them talk to you and not to your wheelchair or other device you use. So often, there is nothing in career development offices to help people develop social skills to make them comfortable enough with themselves so that they can pass that comfort on to other people.

Ryan: I think Suzanne's got a great point: Students should have to be educated or learn or be exposed to how to sell themselves, because even though there may be this ADA law out there that says employers shouldn't ask certain questions or whatever, they do have the right to ask what kind of reasonable accommodations you need. You've got to approach that in an informative way, not in a negative way with an employer; otherwise, they're going to see this as a constant confrontation.

Bottom line, it comes down to the individual's attitude toward their particular condition, how they handle it. You can handle it with some grace; you can handle it with some humor. People that are not disabled feel a little more comfortable if you feel comfortable about laughing or smiling at some of the problems you face, and just not make a big issue out of it.

Scheiner: When I counsel people who are trying to decide whether to be lawyers, I encourage them to do something in your own life where you're not beating your head against the wall every day. Because although I believe that disabled people should have the same choices as able-bodied people, I think everyone has to make a choice in their life: Where are they going to be most comfortable and less aggravated on a daily basis?

Philippi: I think people who have disabilities have overcome so many things. Probably you've had to advocate for yourself for a long period of time, which is something that a person without a disability may



not have had much practice in. The people interviewing on campus are lawyers, they're not HR directors; they're not people who interview every day; they're not personnel specialists.

Of course, they're smart people, and you would hope that they've read about questions that can and cannot be asked. But they're probably not as comfortable in some situations as a professional HR person would be in terms of talking to a variety of people from different backgrounds, different disabilities, different cultures.

We try to do training workshops for the lawyers, and there are wonderful materials; the law schools have these. They're provided by the National Association for Law Placement, *Interviewing Tips for Law Students With Disabilities*. We require our on-campus interviewers to read these booklets before they go on campus. You don't know if you're going to interview someone with a disability or not. It talks to them a lot about making assumptions, about the essential job function, about questions they can ask so the student understands and we understand if there is a fit.

You can bet anyone interviewing you is going to make assumptions about what you can and can't do, if you don't tell them or if that doesn't come out in the interview. That's just human nature. And the less training they've had, the more they're going to make assumptions.

Gardner: On attitudes and assumptions, there are two things I want to say. I preface these comments by saying that I cannot and do not speak on behalf of individuals with other disabilities; I'm blind, and I know blindness. I've been on the national board of the National Federation of the Blind for a number of years and have been the president of the National Federation here in Arizona. And I almost said that I've been blind all my life, but, hopefully, not yet.

From my blindness perspective, I believe that the problem of blindness is not the lack of eyesight. It's not the inability to see, because given opportunity and training, an individual can acquire alternative techniques for doing what he or she would have done. The real problem with blindness is society's



Randall Howe

Nancy Philippi



Suzanne Scheiner

You can bet anyone interviewing you is going to make assumptions about what you can and can't do.

—Nancy Philippi

attitudes about blindness. Because blind people are part of sighted society, we often assimilate the same attitudes, the same neg-

ative assumptions about the ability to do or to not do. In reality, most occupations don't require the ability to see, they require the



ability to acquire and utilize information. That's certainly the case in the practice of law. Each of us has a package of characteristics; the disability that we have is simply one of many characteristics. If we recognize that the lack of eyesight is not the problem, then progress can be made.

If you can't fix your eyes so that you're not blind anymore, it's nice to know there's something else you can fix and still be very successful—and that's your attitude.

For a blind person to be successful, I believe it takes three things. First, the blind person needs to understand and believe deep down in his heart of hearts that he can be successful. Secondly, the blind individual needs to develop some of the skills of independence—Braille, cane travel, other alternative techniques. Thirdly, the individual needs to get to the point where they're at peace with their blindness. They need to recognize that society generally has very negative notions about what blind people can do. When someone tries to help you across the street when you are perfectly capable of going by yourself, you shouldn't get all bent out of shape about it. If you've got those three things, I think you will be successful.

Ryan: If I were an employer faced with someone that came in and needed accommodations and they were going to be flexible, willing to work with the employer, and also had a sense of humor about it and know that everything can't be perfect, that they're patient, I think you're going to have a better relationship.

I don't know if it's something that can be learned or cultivated; maybe all of us just have it naturally. These are important qualities.

Maybe we've got tougher physical obstacles than a lot of people, but the same things that make people that are not disabled successful, a lot of those same traits are necessary for people that are disabled. And I don't think we can rely on—excuse the pun—the crutch of the ADA to take care of all those problems. There's a lot we have to do on our own.

Scott: But do other people's assumptions add to the challenge?

Ryan: I'm in a wheelchair, and I was told coming out of law school that I would not be able to try cases in the courtroom and be effective. My first full-time job was trying cases at the county attorney's office. It turned out I was very successful.

In some ways, I was able to use my disability to my advantage in front of juries. As was pointed out, they don't often see people with a disability and they often have never seen a lawyer with a disability in a courtroom. So they're fascinated, and they're watching you. They're paying attention to you and they're not paying attention to your opponent—which I took advantage of. It turned out that the so-called assumption that I wouldn't be very good was an advantage for me.

Scott: Leslie, you interact with many people with disabilities and as an executive director, you supervise some of those people. Do you find expectations or assumptions in regard to promotions or other issues?

Cohen: We try to treat everybody the same—people with disabilities, people without disabilities. We have job descriptions and performance measures. What we find is, person to person, there isn't a difference. People in our employ with disabilities don't seem to use sick leave any more than people who don't have disabilities. Some people with disabilities want to work 9 to 5, they don't want extra responsibilities, but some people who have young children or are caring for an elderly parent want that type of schedule, too.

About a quarter to a third of our lawyers have disabilities. Probably about a quarter of our nonattorney paralegal advocates have disabilities. I couldn't tell you that I could point out some difference between them in terms of the job.

Scott: Suzanne, I'm sure you've had experiences with being treated as an equal or being treated the same as others.

Scheiner: I was fortunate growing up; I had two able-bodied sisters that were only a year and two years ahead of me. When my parents were raising me, they said that they wanted for me exactly what they wanted for my siblings. I grew up always thinking that my parents believed that I could be exactly



what I am today. As I grew up, I realized that all they wanted was for me to have a chance at a normal life, with my own apartment doing something of merit. They actually didn't think that at the end of the day I would be the one of their children to graduate from Yale Law School.

When I was clerking on the district court and started doing more things for myself, I had to get up at 5 in the morning to get ready. Five, six, seven years later, I don't have to get up at 5 anymore. But it's that part of your life that your employer never sees, because I've tried to make it so the employer only sees the accommodations I need to be successful.

Scott: On a scale of 1 to 10, how important are attitudes as an important matter, both those of the person with disabilities and those of the non-disabled population around us?

Howe: 10. Attitudes are everything. If we change attitudes, barriers would fall by the wayside.

You can't have any law that will change people's attitudes and their questions. So it's up to us on an individual basis to live and work in such a way that we can change those attitudes. Perception plays an important part.

When I was hired by a law firm out of law school, the firm really liked my work, but they wanted me to do banking law, which is possibly the most boring part of the law that there could be. They told me that they didn't see me as a lawyer in the courtroom, even though I was good at those kinds of things. It was only after I left private practice and came to the AG's office where I had more freedom to do work in the courtroom. In the last 10 years, I've argued more than 40 times in the appellate courts. And I really like the fact that I do something that lawyers thought that I was incapable of doing.

The main things we have to deal with are attitudes and perceptions.

Gardner: Sometimes we tend to overstate the point. I think it was Henry Ford who said, "If you think you can or you can't, you're right." But we don't want to give others the impression that if we have a

Pollyanna positive attitude, we can do anything. Because we still need to recognize that we have a package of characteristics that make up what we are. For example, it doesn't matter how positive your attitude is if you're 6 foot 8 and weigh 280 pounds, you probably are not going to be a very successful horse jockey.

But if we have a positive attitude, we can figure out alternative techniques for doing the job. That positive attitude is what is critical.

Scott: But can lawyer applicants or law students with disabilities be perceived as other than positive? Might that be likely to occur in a younger person who has a disability with which they are not at all pleased?

Gardner: You're absolutely right. I see it all the time with blind people. Most people who become blind begin to deal with their blindness with fear and insecurity, and then hopefully move into a phase of rebellious independence. If you can get through that, you can get to normal independence, and say, "I'm blind, but I'm OK. I'm in a wheelchair, but I'm all right."

Scheiner: While it's important to have some level of acceptance of one's disability, there's something to be said for always wanting more. You have to keep pushing the envelope.

Although it's truly important for the disabled person to have a good attitude, from a hiring and retention perspective, the issue of attitude is far more on the able-bodied person, because if you've gotten to the point where you're a lawyer, your attitude is pretty good. You've gotten yourself to where no one thought you'd ever go.

If we accomplish nothing else but to show able-bodied people that we're just people who happen to have disabilities, then the whole afternoon would be worth it to me.

Scott: Justice Ryan, how do you think others see you, and how do you deal with that?

Ryan: Everyone's first impression is what we see. The challenge for us is to try to get beyond the assumptions, the stereotypes.

Howe: When people first meet me, some assume that I do ADA-type of law or that I do civil rights law, and they're quite sur-

prised that I'm a prosecutor. The work that I do as a lawyer has absolutely nothing to do with my disability.

Ryan: There is a view of judges as being an older gentleman with a lot of white hair, someone from central casting. That isn't the way it is. If you look at judges now, they're from all races, there are women. Many have a perception of what lawyers look like. But not all lawyers are like that. You want a lawyer who is smart, who can communicate, who can do the job. It doesn't matter what they look like.

Cohen: When you do hiring, you tend to naturally gravitate toward people who are like you. That's everybody's natural tendency. In general, the person doing the hiring is not going to be a person with a disability. And their first thought may be they're more comfortable with the applicant who is more similar to who they are. If you don't do this in a mindful, thoughtful way, you can sometimes exclude people who are different.

Philippi: As employers, we have a duty to do our very best job to educate and train people, to do different things to help people really ask meaningful questions, evaluate the candidates' answers, and try to base their decision on whether to bring them to the office on some hard information, not just on a gut instinct.

Scott: Realistically, though, how much of it is based on a gut decision?

Philippi: That's going to vary person to person. We need exposure to people so that the differences are gone. The differences seem to matter a whole lot in the first three minutes; the longer you're with someone, the less you focus on the differences.

Ryan: We've all got to realize that there's this initial reaction, and we've got to accept that and deal with that and understand that's how people react to other people initially. You've got to try to let your personality come through at some point.

Scheiner: People see people by their most prominent characteristic, which usually for a disabled person is their disability. You're never going to make a person not see you as someone who has a disability.

Ryan: There are going to be people who

come up and want to help you. For myself, I'm very used to being as independent as possible—crossing streets, getting out of cars, traveling by myself. You always have people coming up to help you. If you react negatively, they're going to go away thinking that everyone in a wheelchair has got an attitude. You've got to work against that and just say, "Thanks for your help, [but no thanks]." Or sometimes accept it, because they learn; you can say, "OK, I need a little bit of help here, but most of the time I can do it myself." Make them feel comfortable. Don't abuse them or be rude to them. Look at it as a learning process for them.

Scott: Let's discuss some of the structural issues that face people with disabilities.

Scheiner: Attitude cannot be separated from infrastructure. You need them both.

Scott: What are some of the reasonable accommodations you need to get the job done?

Howe: Very often it's the small things that count as far as the physical plant.

Philippi: Most accommodations are not expensive at all. That's information that more employers need.

Cohen: I agree. Accommodations neither need to be terribly expensive or very difficult to do.

Scheiner: The biggest thing is to find a good support staff relationship, because in some ways you need more than a secretary. For most law firms or employers, it's "How do we anticipate what it is the person might need as a practicing lawyer?" Because the nature of law is you don't often expect what happens next.

Cohen: Reasonable accommodations are in some ways easier than one might think and in some ways harder. It has to be an interactive process between an employer and an employee. Particularly when you hire newer attorneys, my experience has been they don't want to be any trouble, they just want to do their job, and they don't want to stand out or cause problems.

Sometimes it only means putting blocks under a desk to be the right height, sometimes it means moving around secretarial duties so someone gets the help they need. You have to be flexible and creative. ▲