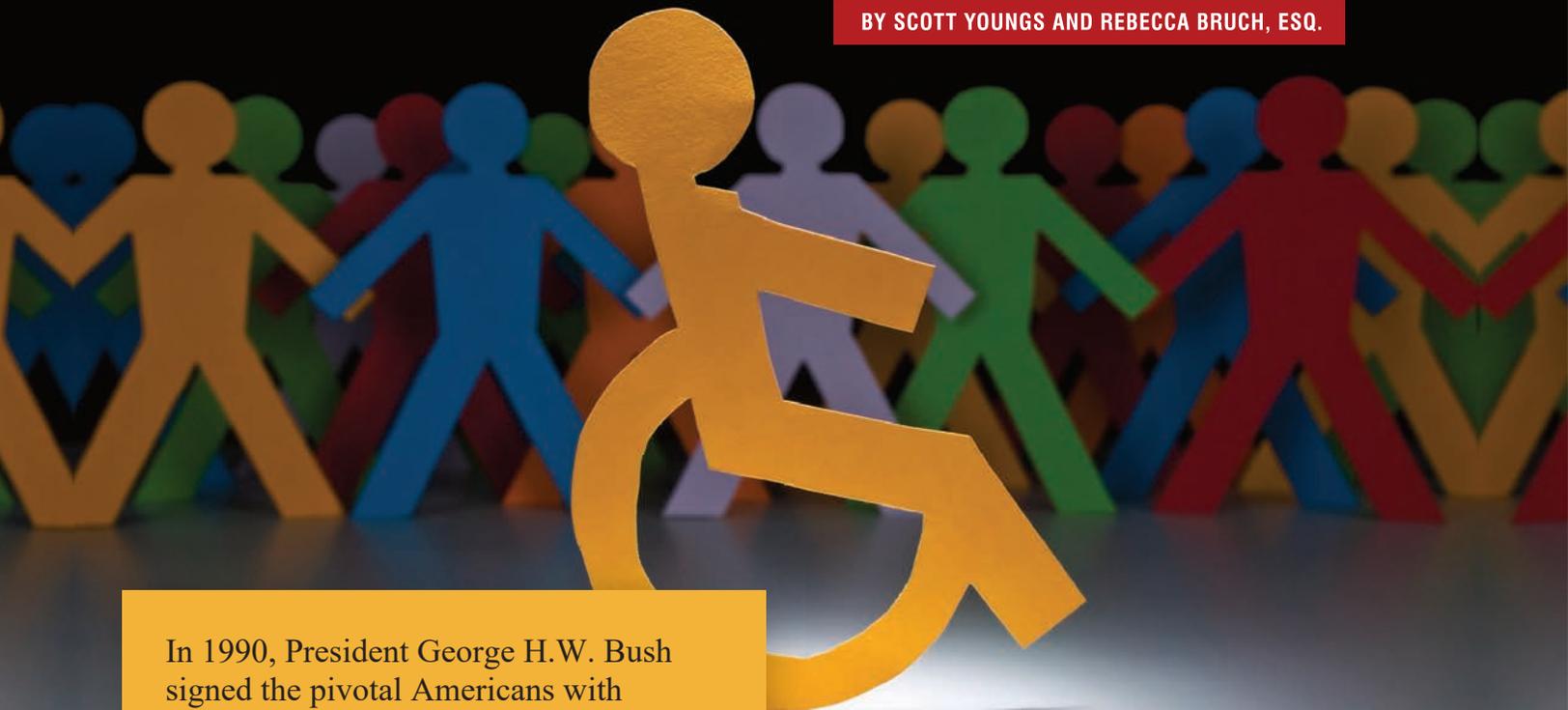


# HAS THE ADA MADE A DIFFERENCE? AN INSIDER'S PERSPECTIVE

BY SCOTT YOUNGS AND REBECCA BRUCH, ESQ.



In 1990, President George H.W. Bush signed the pivotal Americans with Disabilities Act (ADA) into law. At the time, he said, “Let the shameful walls of exclusion come tumbling down.” The intent and scope of this landmark legislation is to provide basic protection for people with a variety of impairments from discrimination in almost all areas of our society. The act doesn’t just provide protection from discrimination; the law’s full intent is to proactively provide full and equal access to, and the opportunity to fully participate in, every aspect of our community. The ADA offers protection from discrimination in a variety of areas, including: work-place, public and private sector services, schools, public and private buildings, and transportation.

In 2008, the ADA Amendments Act profoundly expanded the ADA by clarifying what constitutes a disability. Approximately 53 million Americans have disabilities; that amounts to about one in five people, or about 20 percent of the country’s population. Those with disabilities make up one of the largest minority groups in our country; however, outside of the disabled community, the law is unfamiliar to most citizens. In fact, even 26 years after the ADA’s passing, disabled individuals in the U.S. are still facing major discrimination and unfair treatment.

The ADA is enforced by five federal agencies, but the core basics of the law are enforced by the Department of Justice, the Equal Employment Opportunity Commission and the Department of Transportation. As is the case with any civil rights law, the ADA is enforced through a complaint process. So, if people with covered disabilities are not willing to file complaints, issues will remain unchecked.

My personal story with the ADA began with these words: “I am sorry to tell you, but you will probably never walk again.”

It was the spring of 1979, and as a 15-year-old, high-energy adolescent, these words rang softly in my mind. I was highly motivated, focusing my time and effort on the activities of daily living that I would need to master in order to leave my hospital institution. Days were structured; things were provided for me—ring the bell and someone came. I was a good patient, reckless at times, doing wheelies and speeding in the hallways. However, I would soon learn that outside the hospital, the “shameful walls of exclusion” were both thick and high. I went from a substantively barrier-free environment to a community that was unprepared for my integration back into everyday life.

The barriers were endless, around every corner and insinuated into every aspect of what I was trying to accomplish. The environment was unwelcoming and hostile. My adolescence and naivety protected me from the reality of who, and what, I had suddenly become. I was now a part of the minority—underprivileged and faced with a multitude of physical and attitudinal barriers that society, at that time, had placed in my way. Becoming disabled happened in a split second when a dirt-bike accident resulted in paralysis. But learning to be disabled was a process. I longed to just be “normal.” I wanted to go to the places I’d been and do the things I’d done before: go to school, play sports, get a job, and to be a part of my community. But getting there wasn’t going to be easy.

In 1979 the Rehab Act of 1973 was partially implemented, impacting schools and other places that were federally funded. The library and the post office were the only facilities in my little, northern-New York hometown with ramps. The barriers in the private sector were insurmountable. Think about how many times each day you utilize places that offer services: coffee shops, gas stations, all kinds of stores, restaurants and even your workplace. I would spend the next decade finding various ways to get around in my new and inaccessible world.

Flash forward—it is 2016, and a myriad of federal, state and local laws are now in place for the purpose of preventing folks like me from being treated differently from everyone else. These laws are intended to allow an even playing field. Huge efforts were undertaken to legislate this change. But, in reality, have the laws actually had any significant impact? I don’t think one day in my life has gone by during which society hasn’t reminded me that, yes, I am indeed still different; that I still need to modify my actions in order to do the things that every American wants and/or needs to do on a daily basis.

In the early 1990s, just as the ADA was being implemented, I began a career in disability services. I started at the Northern Nevada Center for Independent Living in 1990, and in 1994 I moved to the Nevada Center for Excellence in Disabilities at the University of Nevada, Reno. Having a spinal cord injury and using a wheelchair has its benefits. It gives one a realistic and functional understanding of what the standards

really mean in everyday life. To me, they mean physically getting into buildings or not; being able to use the restroom or not.

In the early days (1990-1996), the ADA Guidelines and the building codes did not even come close to saying the same thing. Lots of time and effort went into getting all the parties involved on the same page. Today, the standards are more harmonized, and the information is somewhat consistent. So there is little doubt regarding the requirements for minimal compliance in buildings and facilities. But there is still so much more work to be done overall, with an eye toward providing equal access to programs and services, and fostering basic community awareness regarding people with disabilities.

The employment situation for people with disabilities has not improved at all; in fact, some statistics show that it may have gotten slightly worse. It seems to me that there must be something fundamentally wrong with the idea of trying to legislate change through civil rights law, without ever addressing the social and cultural aspects of disability, poverty and discrimination. These issues are daunting and may require more systemic action.

What can we expect in the years to come? Technology seems to be moving at light-speed, and people with disabilities are acquiring more tools that allow them to compete with their peers in a variety of areas. Some of these tools have allowed people with certain disabilities to access and connect with the world around them. With the appropriate technology, people with disabilities that once isolated them now have the ability to compete for jobs and have an impact on their communities. But the reality is there still is a huge gap called the digital divide, and many folks with disabilities remain in poverty and on fixed incomes. There is also a huge lag when it comes to online programs and services. People with disabilities may have the technology and the desire to use it, but barriers in the digital world are ever-present. In an effort to go paperless, we have forced everyone into a world in which the digital service providers are not using common universal design principles or current guidelines.

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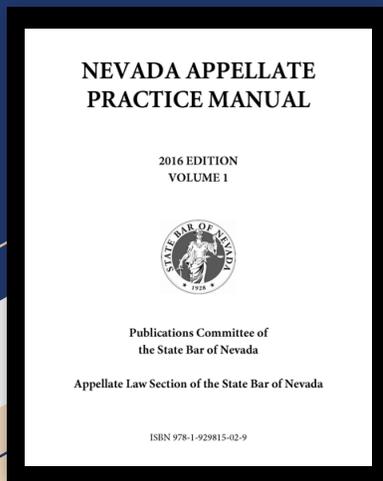


Scott Youngs

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## HAS THE ADA MADE A DIFFERENCE?

For those people who are blind, have learning impairments or require hands-free access, getting in the front door to access these services is almost impossible. It is like not having a ramp leading to the front door for wheelchair users. Both the public and private sectors need to catch up with the demand for mobile accessibility in our ever-growing global and digital world.

Twenty-six years after the implementation of the ADA, more and more people with disabilities are interacting with their communities and demanding equal access. The ADA has no doubt been the biggest driving force behind this cultural shift. One in five people have some sort of disability and, as the population gets older, many members of the growing elderly population will likely acquire certain disabilities or impairments that impact major life activities. This issue really does affect everyone and cannot be ignored.

My advice to attorneys is to become more informed about civil rights laws. Seek out knowledgeable people to guide you and your clients. Think about disability in general as a normal part of our diverse professional and personal agenda. Include people with disabilities and service provider groups as part of the process. You will find that their input is invaluable.

The needs of our communities are ever-changing. The needs of people with disabilities are changing as well. Will your clients be behind that curve, or will they be effective agents for change, leading the way to a better quality of life for all of our citizens? **NL**



**SCOTT YOUNGS** has been a trainer, educator and advocate for individuals with disabilities for more than 25 years. He is the Project Director for ADA Nevada and the Nevada Assistive Technology Resource Center with the Nevada Center for Excellence in Disabilities at the University of Nevada, Reno. He provides statewide training, technical assistance, assessments and other services to individuals with disabilities, agencies, service providers, and businesses regarding the Americans with Disabilities Act and Assistive Technology. He volunteers his time on several boards and committees statewide and is a strong promoter of improving the quality of life of people with disabilities.



**REBECCA BRUCH** is a shareholder at Erickson, Thorpe and Swainston, where she practices primarily in management-side employment law. She litigates and advises on all employer issues, including the ADA. Scott Youngs appeared in her life in 1991, when her son suffered a spinal cord injury; Youngs provided incredible emotional support and resources for her family. Since that time, Bruch and Young have worked together on various legal projects, advising employers on a myriad of ADA-related issues.