

Suits force ADA compliance

OPPOSING VIEW Proposal shifts burden of policing law to disabled.

By Robert Anthony Bogdan

I am a lawyer representing an organization that sues businesses that have failed to comply with the Americans with Disabilities Act.

For years, the ADA has been in effect, and for just as many years, it has been ignored by many. By suing, my client's purpose is to force recalcitrant businesses to make their facilities accessible to persons with disabilities.

An amendment to the ADA has been proposed that would require disabled persons who are subjected to discrimination to provide a formal notice to businesses that they are violating the ADA. The amendment then would afford those businesses up to 90 days in which to comply with the law.

I believe such a change would be unfair.

First, my client's experience has been that asking businesses to comply with the law has done little good. Most such requests are ignored, or even worse, met with hostility. Speak to almost any disabled person, and you will hear the same story.

Secondly, I remain convinced that all such a notification requirement will do is increase the

burden placed on the disabled while encouraging businesses to ignore the ADA's requirements, knowing they cannot be called to task pending the grace period.

Thirdly, the motivation of myself and Lance Wogalter, as attorneys for our clients, is not to rake in huge fees, as critics claim. We have undertaken this representation because our client's position is the right position. Of course, we cannot work for free. But our fees are reasonable. In 23 resolved cases thus far, the total legal cost has been \$20,500. After filing fees, that amounts to only \$700 a case.

I believe it is unfair to place the burden of policing the law on the disabled, as notification would do. The disabled would be put in the position of asking these violating businesses to please stop. It would be like requiring a job applicant who wasn't hired because of her age and sex to notify the company that it may have violated statutes prohibiting age and sex discrimination and that she would be back in three months to see whether she might be hired for future positions.

The disabled should not have to provide "notice" before being afforded the right to participate in society.

Robert Anthony Bogdan is a Pompano Beach, Fla., attorney.