

# Lawyering with Challenges: Disability and Empowerment

By Stuart Pixley

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As a senior attorney in Microsoft's Intellectual Property Group, I have focused on strategic patent licensing for the last six years. Before joining Microsoft, I handled complex intellectual property transactions for software, high tech, semiconductor, pharmaceutical, and biotech companies at large law firms in New York City and Silicon Valley. Because I was born with cerebral palsy, I have significant hearing loss and no functional vision in one eye, and I get around by electric wheelchair.

As an attorney with a significant disability, I encounter practical obstacles every day that, for me at least, can be identified and largely overcome with some effort, ingenuity, and planning. More challenging are social obstacles: participation in social functions, lack of meaningful social networks and role models, and popular assumptions about and low expectations of people with disabilities.

I owe my success in navigating these challenges as a professional to a few foundational experiences as a child and young adult—my basic life needs were easily met, life and career expectations and aspirations for me were no different than for others, and I was included and supported in both the non-disabled and disabled communities. Today, as the legal diversity movement embraces disability, I see the diversity framework as a compelling way to ensure that others benefit from the same life experiences that I was lucky enough to have.

## Environmental Challenges

My disabilities present the same daily challenges for me as an attorney as anyone else with similar conditions. Conference rooms can be small and crammed with chairs, making it hard to get where you can see or hear anything, and impossible to leave mid-meeting to take a phone call or caucus with a client without awkwardness and disruption. It can be challenging to understand and track conversations in large conference rooms, and on conference calls. At public events where I can't lip-read, it is difficult to distinguish one voice from another.

Legal work can require distance travel at the drop of a hat. While air travel is straightforward, coordinating ground transportation at end destinations is often a major hassle. Accessible rental vans are scarce and expensive and must be reserved weeks or months in advance. Those cities that have wheelchair-accessible taxis also require reservations up to 24 hours in advance. International travel can be more daunting, as regular transit in much of the world is completely inaccessible and even many modern buildings can be unmanageable. When I was a senior associate, I had the opportunity to initiate a strategic transaction for an important client involving the dissolution of a large joint venture and restructuring of business and legal relationships with the former venture partner. Because the deal was moving fast and discussions had already started in a small town in Japan, there was just no way I could jump on a plane and navigate my way to the site in 48 hours, so the firm had to send someone else.

But even the readily available transportation taken for granted in major US cities, and on which big city law firms depend, isn't always accessible. At the start of my career, long office hours were my stock in trade, just as they were for every other junior associate in New York City. But in the late 1990s, there were no accessible taxis and almost no accessible subway stations. Although most metro buses had wheelchair lifts, many would pass me by because the lift wasn't operational, the driver had lost his lift key, or the bus was too full to accommodate a wheelchair. Not the best situation on a good day, and a perilous one after 10 pm in the winter. So I improvised, learning to use PATH light rail to commute from my Wall Street office to my midtown apartment via Hoboken, New Jersey.

Today, most practical issues can be managed with knowledge of key disability resources, communication technology, and supportive staff and colleagues who are willing to experiment and accommodate. In actuality, I face relatively few obstacles in the core activities of my job drafting contracts and letters, and communicating individually with clients, colleagues, and opposing counsel. But even if the obstacles are at the periphery, it is hard to feel you have a place at the table if you struggle to get to the table on time and hear what is said.

## **Social Challenges to Full Participation**

While communication and environmental barriers present daily tactical obstacles, social exclusion and challenges in building crucial social skills and battling ingrained social attitudes and conventions present more palpable career obstacles.

Inclusion in the social life of the legal profession is, at one level, no different than inclusion in any other aspect of the profession. Social events, however, are more likely to be inaccessible and underappreciated in their importance. In private practice, I missed out on a great deal of training, client networking, and team bonding at golf outings, sporting events, and other inaccessible excursions. For a young attorney, acceptance as a peer seems to depend so much on being perceived as an active team member in all things and developing and demonstrating charm and social graces. Just being present does not guarantee inclusion. Engaging colleagues at a cocktail party is a challenge when the conversation is literally taking place two feet above your head and getting in a word edgewise, or even eye contact, requires persistence. It can take a little courage and a little finesse to invite folks to grab a seat and sit down so you can see eye-to-eye.

In a profession obsessed with image, impressions, polish, and gravitas, it is hard not to feel awkward, ill-fitting, and out of place: a slightly slouching attorney in a wheelchair confounds expectations of how a lawyer “walks and talks.” As an associate, I found few who could model what success and social savvy might look like for an attorney with a disability and introduce me to their social networks.

Despite the social challenges, I managed to adapt and learn from others. One of my early champions was a very senior in-house counsel. As an African American woman in a corporate intellectual property department, she too confounded notions of what a corporate lawyer was. And she was witty, insightful, a master of her craft, and a force to be reckoned with. She had a presence and style that wasn’t borrowed, that was all her own, and that commanded the attention and respect of company leaders. While I could not hope to approximate her social skills, I learned that I didn’t need to borrow from her or anyone else. Instead, I just needed to learn to be myself.

In my day-to-day interactions, colleagues and clients don’t treat me differently than anyone else. In large measure, I am lucky to have found an environment that is open and accepting, that is comfortable with disability and prides itself on diversity. But not every place is like Microsoft. It is clear that much of society still holds low expectations for people with disabilities. Waiters and airport attendants still ask the person next to me what I want or need rather than asking me directly, assuming that I can’t speak for myself. Many professionals assume I am unemployed or work from home. Astonished to learn that I am an attorney, many proclaim me “an inspiration,” as if the biggest challenge in law school was negotiating hallways in a wheelchair, not mastering the rule against perpetuities. It is a constant reminder of the need to continually demonstrate where my talent truly lies and that I can be counted on to deliver value, the same as anyone else.

## **Personal Foundations for Success**

At some level, I understand these expectations. Although people with disabilities are the largest minority group in the United States, they have the lowest employment rate by a wide margin.<sup>1</sup> Decades after the Americans with Disabilities Act promised to change those statistics, the numbers have scarcely budged. And my personal experience is not much different. I had plenty of friends in high school and college with disabilities with more intelligence and talent, yet out of perhaps a dozen peers, I only know one who has a full time job. I would like to believe I owe my success to my problem solving skills, tenacity, and hard work—or some force of personality. But I know the success I’ve had is also the product of more important foundational experiences:

- I have always had access to the basic personal care, equipment, and transportation I needed to stay fit and able to get to school and work. It sounds obvious, but I was able to focus on learning and building a career because, despite my particular disability, I didn’t need to focus on the basics of survival. I know gifted, intelligent, and ambitious people whose potential is unrealized simply because they struggle for lack of regular, reliable transportation or attendant care, or who have passed up academic or career opportunities because the advancement or move would have made the personal cost of such care unaffordable.

- I have been included in the disabled *and* non-disabled world. In the 1970s and early 80s, while many of my disabled friends went to special schools, I attended regular private and public schools, most often as the only disabled student in class. Although I sometimes felt isolated, I couldn't have envisioned and aspired to an independent, integrated adulthood if I did not have that experience in school. But I learned it was equally important to be a part of the disability community. I met life-long friends while playing wheelchair sports and attending summer camp for disabled youth. After college, I worked in the independent living movement and discovered the disability community through disability rights and disability pride. As an outsider, finding a community with a shared history, where you can be utterly yourself and experience normalcy and belonging, is essential for replenishing self-esteem and motivation.
- My parents, teachers and employers set the same high bar for me as for anyone else—the same standards, same ambitions, and same opportunities. They were all honest, telling me that I would need to compete, prove myself, and produce results—I knew I would not receive an “A” for effort alone. But just as I was I was encouraged to explore all of my interests, and think about my future in the same terms as anyone, they were always frank about the effort and challenges certain career choices involve.

## Leveraging Diversity for Others

Through most of my years in private practice I seldom encountered others I knew to be attorneys or professionals with disabilities outside the disability field. The National Association for Law Placement (NALP) reported that only 0.13 percent of partners and associates are lawyers with disabilities, certainly reinforcing my perception that I was one of a kind.<sup>2</sup> Since I have become involved in legal diversity, I have learned that is not quite true. A 2012 membership survey of the Washington State Bar Association (WSBA) reported that 21 percent of survey respondents reported having a disability or impairment.<sup>3</sup> Despite the larger than expected numbers, the report indicated that attorneys with disabilities or impairments ranked second among diversity groups in the frequency of professional barriers faced and ranked the highest overall in intensity of those barriers. But I do not see any reason this cannot be changed.

I am particularly optimistic that the diversity movement can help ensure that people with disabilities in the profession and in the pipeline benefit from many of the same foundations for success that I did. At the same time the framework focuses on including diverse people in the larger workplace, it recognizes the value of diverse communities to empowering their own members—inclusion in both communities. While it focuses on removing social and institutional barriers to achievement and advancement, and providing opportunities to experience success, it does not do so by lowering the bar. Indeed, the diversity framework is appealing because it focuses on benefitting everyone, not just those who are diverse. Those who only receive “sensitivity” training might only regard diverse people as delicate or fragile and not appreciate their inherent power, potential, or excellence. In the best diversity programs, growing employee understanding and appreciation of diverse communities is growing the institution's own cultural competency and capabilities. In that context, everyone—even those who are not diverse—are enriched and empowered.

This last message is perhaps more potent and timely for people with disabilities than anyone else. Even those supporting the cause of people with disability—to find a cure, or to secure basic services and fundamental access—have long resorted to messages of fear and pity, promising the chance to help the helpless and fix the broken. While that message may successfully motivate charity, I suspect it’s far less effective at motivating genuine inclusion. The diversity movement advocates that organizations must do for people with disabilities what it does for all of its employees: create a safe, empowering place where people can bring their “A game”. And a message that we have a valuable “A game” to bring is the most important message of all.

## Endnotes

1. See Cornell University Disability Statistics, <http://disabilitystatistics.org>.
2. *Lawyers with Disabilities*, NATIONAL ASSOCIATION FOR LAW PLACEMENT, [http://www.nalp.org/lawyers\\_with\\_disabilities](http://www.nalp.org/lawyers_with_disabilities) (last visited Mar. 11, 2015).
3. *Membership Study 2012*, WASHINGTON STATE BAR ASSOCIATION, <http://www.wsba.org/About-WSBA/Diversity/Membership-Study> (last visited Mar. 11, 2015).