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Patience, not litigation, results in blind-accessible ATMs

Not all plaintiff lawyers sue first and ask questions later.

Take Linda Dardarian and Elaine "Lainey" Feingold. They've spent the past 10 years persuading banks to install blind-accessible ATMs. And as of the end of last year, they can point to more than 40,000 talking cash machines as evidence that a friendly inquiry here and there — albeit with the tacit threat of litigation — can be pretty effective.

Their work was inspired in 1995 by Steven Mendelsohn, a blind San Francisco solo who had mentioned he couldn't access his cash without seeing a teller or giving someone else his access code to enter the machine.

"It's enormously problematic," said Dardarian, a partner at Goldstein, Demchak, Baller, Borgen & Dardarian in Oakland who specializes in employment class actions. "It's a huge security violation, as well as a civil rights violation."

Sidebar

She and Feingold, a Berkeley solo, soon wrote letters stating as much to Citibank, Wells Fargo Bank and Bank of America.

The banks, she said, may not have seen things the same way. But without a suit filed, they were willing to talk.

"They don't necessarily agree that it's a civil rights violation," she said. "They agree that if it's a problem facing their customers they want to fix it."

In 1996, banks started working with Dardarian and Feingold's client — the California Council of the Blind — on building prototypes for talking machines, bringing blind testers into their laboratories.

"In a litigation context, we would never be able to do that," she said. And in 1999, Wells Fargo became the first bank to sign an agreement to install talking machines. That was a major step.

"It's hard for a company to be first," Dardarian said. "They don't want to stick their necks out for their competitors."

With one bank down, others followed, signing agreements with the lawyers to install new technology. The process — which Dardarian calls "structured negotiations" — has an enforcement mechanism included in the agreements (albeit one that's never had to be used). And while there's no litigation, Dardarian said private financial arrangements keep the lawyers from going broke.

"All I can say is it's confidential and we don't work for free," she said.

With the ATM battle largely won, Dardarian and Feingold have set their sights beyond cash dispensers.

Last year, American Express agreed to provide its statements in Braille and large print, and Wal-Mart agreed to add keyboards to point-of-sale machines so blind customers can enter passwords without saying them aloud to a salesperson.

SHELLEY EADES

TALK SOFTLY, CARRY A BIG STICK: Linda Dardarian, a partner at Goldstein, Demchak, Baller, Borgen & Dardarian in Oakland, found that banks were more willing to discuss installing blind-accessible ATMs when they were not immediately threatened with litigation.

This year, the lawyers are negotiating with the city of San Francisco to install beeping pedestrian signals around the city.

For someone accustomed to going to court, that's a good thing. "It's trust-building," Dardarian said.

— *Justin Scheck*

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