

NEGOTIATING WINS FOR THE DISABLED

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June 21, 2007

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SAN FRANCISCO - Berkeley attorney Lainey Feingold is doing what a lot of lawyers in the disability rights field do: getting big corporations and local governments to accommodate the blind.

But there's an interesting twist to Feingold's approach. In her 12 years of successfully advocating for the vision-impaired, she has never filed a lawsuit.

"The money is better spent on solutions than on legal problems," she said.

Feingold, along with Linda Dardarian of Oakland civil rights firm Goldstein, Demchak, Baller, Borgen & Dardarian, recently persuaded the city and county of San Francisco to spend \$1.6 million installing 86 pedestrian crossing signals that aid the blind by making a ticking sound when the "walk" signal is on.

Feingold and Dardarian, working on behalf of several organizations of blind consumers, also recently got Radio Shack to agree to add tactile keyboards near the cash registers in every store, so that sight-impaired customers can use their debit cards to make purchases.

Some consumers called that a victory.

"Point-of-sale devices must have tactile keys so blind people do not have to share their PIN with strangers," said Melanie Brunson, director of the American Council of the Blind.

The attorneys also have gotten several of the country's largest banks, including Wells Fargo and Chase, to install tens of thousands of talking ATMs, where customers who cannot read the screen can plug in headphones for audio instructions.

Their list of accomplishments is piling up, with 27 agreements in place with companies nationwide.

"Other lawyers should study what they're doing and replicate it," said Michael Waterstone, a professor of disability law at Loyola Law School. "They're a great example of advocates getting things done without litigation."

Waterstone and others in the disability field have watched as major corporations such as Target and Hotels.com have become embroiled in costly litigation over making accommodations for the blind.

Feingold and Dardarian are taking a different approach and succeeding. But they do have some muscle behind them.

When they write to companies requesting "structural negotiations" on behalf of the blind, they make sure to use the letterhead of Goldstein, Demchak, Baller, Borgen & Dardarian, an Oakland class-action and civil rights firm whose lawyers have taken on big companies as well as public entities.

Behind every polite request is the specter of something tougher.

"We are prepared to sue, and people know that" Feingold said.

"People know that [Goldstein Demchak] is a serious firm that knows how to litigate. It takes two to tango, but if they don't want to deal, then - "

According to Waterstone, the attorneys have found a solution to a problem that many in the field find nettling: recovering attorney fees.

"It can be hard to find lawyers to litigate accommodation cases," he said. "The most that happens is you seek an injunction.

And you have to win to recoup legal fees. And it's at the end of a long, dragged-out process."

Feingold and Dardarian, when negotiating with companies or cities, factor in attorney fees as part of the bargain from the beginning.

"We are entitled to fees in the same manner as if we had filed suit," Feingold said.

Some agreements, like the one with San Francisco over crossing signals, take years to hammer out, she said.

San Francisco Deputy City Attorney Christine Hasyashi dealt with the two attorneys in the crossing-signal agreement.

"Any solution short of litigation is a win-win," Hayashi said.

"We sat down, and it was hard for a long time. The funding was difficult, and the technology involved was a moving target. ... But it was a very effective process. Litigation is rarely a successful way to find mutually productive solutions."

When it comes to making new technology accessible to the blind

- something not always covered in existing laws such as the Americans with Disabilities Act - negotiating agreements could be the wave of the future, Feingold said.

"This is collaborative," she said, "and the legal system does not provide the right forum for collaborations on tech developments."