

In the Fast Lane: No Limits for Attorneys with Disabilities

By Hope E. Ferguson

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Greg Abbott has logged miles across Texas in his bid to become its next attorney general. For Abbott, who has used a wheelchair since an accident left him partially paralyzed nearly 20 years ago, the landscape has changed, quite literally, since the passage of the Americans with Disabilities Act (ADA).

In July, the U.S. Equal Employment Opportunity Commission (EEOC) marked the 12th anniversary of the ADA with a celebration at its headquarters. Before the ADA, explains Abbott, "I would encounter situations when I would need to go places and do things that were just not accessible."

While the ADA has been helpful in easing barriers in public places and changing misperceptions, these four attorneys—who all have disabilities—have been determined to succeed, despite the obstacles and challenges they face daily. What has propelled the attorneys profiled here to success is determination, drive, an innate sense of self-worth, strong role models, and family and peer support.

High-profile attorneys with disabilities like former U.S. Senator Bob Dole, whose war injuries are part of his lore; Judge David S. Tatel, of the United States Court of Appeals for the District of Columbia, who is blind; and Andrew Imparato, a Stanford Law School educated attorney with bipolar disorder, who is president and CEO of the American Association for People with Disabilities (AAPD), the largest grassroots cross-disability advocacy group in the nation, make working while having a disability an attainable goal.

Yet most people with disabilities suffer from disproportionate levels of unemployment and a lack of educational opportunities.

According to the U.S. Census Bureau, 70 percent of people with a disability are unemployed, and only half of disabled college graduates hold down jobs. According to Olegario D. Cantos VII, who was recently named general counsel and director of programs for the AAPD, who has been blind since birth: "The most significant problems surrounding disability are not the traits themselves, but rather the attitudes surrounding them. There are 56 million people with disabilities in this country, and since disability can be acquired at any point in one's life, ours is the only minority group that anyone can join."



James Merklinger

As indicated by James Merklinger, managing attorney and director of legal resources for the American Corporate Counsel Association (ACCA) in Washington, D.C., "In the legal profession, competition is so tough, there are probably plenty of legitimate reasons an employer could come up with for not hiring me if they wanted to. I believe the ADA, at a minimum, provides attention to the fact that people with disabilities should be considered for a job."

Merklinger, who got through college on a football scholarship (he was captain of his team), doesn't appear disabled, but looks can be deceiving.

After seven years making the rounds of doctors' offices and being variously misdiagnosed as having anything from allergies to mental illness, Merklinger was diagnosed with Tourette syndrome at the age of 14.

It was only in college that he realized he was capable and smart. He missed class for a game, and heard later that the professor had pointed out that even someone "superintelligent" like Merklinger needed to work hard to write well.

"That was the first time anyone had ever said that about me," he says. "When I was younger, it was always, 'Oh, he has learning disabilities.'"

Because of his experience as an outsider, Merklinger, now 36, has dedicated himself to helping others who feel overlooked. Besides pro bono work—primarily in immigration, disability, and elder law issues—he successfully lobbied to have Tourette syndrome included in the Children's Health Act of 2000 (see sidebar).

According to the Tourette Syndrome Association, Tourette's is an inherited, neurological condition characterized by tics that can take the form of uncontrolled eye movements, incessant throat clearing, involuntary movements like thrusting or kicking, or vocalizations, which, in about 30 percent of cases, manifest as profanity.

Although a panoply of drugs have been used to treat Tourette syndrome, few are effective. Shortly after his diagnosis, Merklinger was prescribed Haldol, a drug commonly used for schizophrenia. Neither the medication, which he took for 10 months, nor a two-month experimental treatment program at National Institutes of Health, calling for lecithin-laced milkshakes, brought relief. "I was wiped out all the time, and gained a lot of weight," Merklinger said.

After his diagnosis, Merklinger weaned himself off medication and made a decision not to allow his disability to defeat him. Surrounded by a high-achieving family (his father, a dentist, was a gifted amateur athlete; one brother was briefly on the U.S. Olympic wrestling team; another was a high-school All-American, and his sister received an NCAA award for being the best lacrosse goalie in the country) and a tight-knit group of athletic friends, Merklinger gained enough assurance to succeed in high school and enroll in Wofford College and the University of South Carolina Law School.

Merklinger credits his sense of humor for getting him through the rough spots. He lost his first job—teaching English in Japan—because his employer found his condition disturbing. "He told me to come back when I got it corrected."

Since then he has traveled the globe to Prague, Barcelona, and Sydney. He has learned not to let it bother him when he elicits stares, or worse, if he uses a curse word at inappropriate times. Recently, he was in a movie theater with his girlfriend, and a stranger demanded he "shut up" so that he could enjoy the movie.

"I don't take it personally," he says. "I just say, you might actually like me if you got to know me."

Evan Davis
Partner
Cleary, Gottlieb, Steen & Hamilton



Evan Davis

Evan Davis, partner in the law firm of Cleary, Gottlieb, Steen & Hamilton and immediate past president of the Association of the Bar of the City of New York (ABCNY), has a resume that includes clerkships on United States Court of Appeals and the Supreme Court, top legal posts for New York City's Budget Bureau and Consumer Protection Division under mayor John Lindsey, and five years as counsel to governor Mario M. Cuomo.

A high point came when Davis, out of law school only five years, was named to the coveted position of Watergate Task Force Leader for the House Judiciary Committee Impeachment Inquiry of Richard Nixon.

Davis, too, credits a close-knit achieving family and determination for his perseverance despite a bout with polio, which left him in a wheelchair at age five. Polio, a viral disease that today has largely been eradicated, was a scourge of the industrial world in the 1940s and 50s, usually striking very young children, leaving many paralyzed for life.

Because he was so young when he became ill, his disability is almost a non-issue. "Challenges were never that apparent to me. If you live in a five-story walk-up, it doesn't seem as daunting as it would to the person who lives in an elevator building."

He grew up in Riverside, Connecticut, where his father was a partner in a mid-size law firm. He remembers his public elementary school as highly enlightened. "The teachers were absolutely fantastic, finding a way to enable me to participate and minimizing my perception of isolation." For example, if he played baseball, he would umpire. Having "very, very good teachers and a great education just made all the difference. I was totally mainstreamed, included in all activities; not made to feel different or limited."

That early foundation served him well as he went on to Phillips Exeter Academy, Harvard University, and Columbia Law School. In 1975, Davis joined Cleary, Gottlieb, focusing on litigation and other methods of dispute resolution.

Having just stepped down in May 2002 as the president of ABCNY, Davis points proudly to what was accomplished during his tenure. The association filed influential reports on a number of hot-button issues of the day, including one critical of President George W. Bush's plans for trying terrorists in military tribunals, and reports on computer privacy and advocating changes in the laws governing same-sex marriage.

Davis has found that most challenges come from misperceptions, like those who doubted he had the "physical presence" to be a litigator. His self-confident attitude and comfort with himself has allowed him to transcend any stereotypical judgments and to overcome "the prejudice of low expectations."

Saunders Dorsey
Attorney
Saunders Dorsey & Associates



Saunders Dorsey

Saunders Dorsey of Saunders Dorsey & Associates, a personal injury firm in Farmington Hills, MI, spent two years after he suffered a spinal cord injury staring at the ceiling. Injured in a six-floor fall from the burning office building where he had worked as an attorney, Dorsey, then 29, thought his career—and perhaps his life—was over. But a friend thought otherwise, hiring Dorsey, a graduate of Buffalo State University and Howard Law School, to litigate the high-profile case of a Detroit backup singer suing a R&B star for a back injury sustained on tour. He ended up winning the second largest monetary award to that date in Michigan District Court in the amount of \$750,000.

"I started going at it with his lawyers. I totally forgot about my own problems," Dorsey laughs.

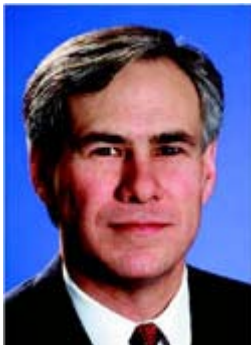
Dorsey hasn't felt like quitting since. He recently sued one of the nation's largest golf course management firms under the ADA for lack of accessibility at its links. (He couldn't name the management firm because the settlement is under seal.)

An avid golfer who owns his own single rider cart, Saunders was troubled when elderly and disabled golfers admired it, telling him they couldn't afford one themselves. It took five years, but he is heartened to see single rider golf carts and accessible bathrooms at many golf courses today.

Next on the agenda for the 49-year-old married father of two is the hospitality industry. He is suing three of the largest hotel chains for lack of accessibility in guest rooms and shower stalls. "I have to take a shower chair every time I travel," he noted, adding that some guestrooms should be equipped with doors that slide open at the push of a button.

Of his strategy of suing industry leaders, he says, "If you go after the largest, the rest will follow."

Greg Abbott
Former Judge
Republican Nominee for Texas Attorney General



Greg Abbott

Greg Abbott, 44, a two-term Texas Supreme Court justice who was named Republican nominee for Texas attorney general last March, has been on the fast track since his graduation in 1982 from Vanderbilt University Law School. Married, with a job lined up at Butler & Binion, a large Houston-area law firm, Abbott's world changed when, jogging in a thunderstorm, he was at the wrong place at the wrong time, and was crushed beneath a 75-foot oak tree.

What followed was three months of hospitalization and rehabilitation, during which he only briefly feared that his chosen plans might be derailed. "I was apprehensive," Abbott says today, pausing before reconsidering his words. "I was anxious about what the future would hold. This was before the ADA and before the world we live in now."

As he lay in intensive care, he wondered: Would he ever have a meaningful law practice? What about his ability to produce and make a living?

The sometimes-grueling travel undertaken as a candidate for public office is eased by the improvements that came after the ADA. When he enters private homes for campaign events, his staff smoothes out any potential physical obstacles by calling ahead. He is also grateful for the flat terrain of Texas. "On the downside, Texas is such a big state that I have to fly frequently, and that's a pain, especially post-9-11," said Abbott.

Abbott is described as a reserved, respected legal scholar, has an "unwavering belief that an attorney general should enforce the law, not lobby for new laws or push an agenda."

"We need to recognize that we have a purpose," says Abbott. "It is my fundamental belief that that purpose is not sitting around and doing nothing. Give me a person with drive and I'll show you a person who will get something done."

Concurs Cantos, "Quite literally, the best people to know the capabilities of attorneys with disabilities are those attorneys themselves. As with other segments of the legal community, including ethnic minorities, women and others, we as attorneys with disabilities have our own unique perspective that contributes to the richness of our profession. In effect, we individually and collectively contribute to the legacy that we will leave behind, as new and younger attorneys come up through the ranks, dedicated to making a difference in the lives of our clients, our constituencies, and society as a whole."

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