

## **Mid-Atlantic ADA Center**

### **Reflections on The ADA: Past, Present and Future**

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>> MEGHAN JONES: Good afternoon and welcome to our webinar. My name is Meghan Jones. I am an office assistant at Transcen. We are pleased to be joined by John Wodatch and Marian Vessels today. John Wodatch is a disability race attorney, socializing in the Americans with Disabilities Act and the Convention of the Rights of Persons with Disabilities. He has 42 years in Federal Government where they authored the government's disability rights and created and led by the Department of Justice section in charge of enforcing the ADA. He was a Department of Justice chief technical expert during the writing and passage of the ADA. He was then the chief author of the technical assistance programs and oversaw the department's ADA enforcements efforts. He was responsible for this major division of the accessible design. He is also the chief author of the Section 504 of the Rehabilitation Act of 1973. As a member of the U.S. Delegation to the United Nations he assisted in the development division of the rights of persons with disabilities. He

now provides training and guidance on the ADA and continues work at the international level assisting countries with their own disability rights law. He received a BA from Trinity College and an MBA from Harvard University and a JD from Georgetown University.

Marian Vessels, Marian Vessels was the director of the MidAtlantic ADA center from 1996 until she retired in 2016. She was the -- disability coalition and the six state MidAtlantic region. Her primary areas of interest are providing information, training and guidance on the Americans with Disabilities Act and appointment to state and local government. Accessible -- previously was the director of the Maryland committee on the employment of people with disabilities and the director of the Maryland governor on disability. I will now turn the program to John and Marian.

>> MARIAN VESSELS: Thank you, Meghan, for that wonderful introduction. It is my pleasure to be able to sit next to my friend John Wodatch and talk about something that I think both of us are very passionate about and John --

>> MAYNOR GUILLEN: Can you take the mic closer to you?

>> MARIAN VESSELS: And John has had extreme experience developing not only the ADA regulations but many others. We are going to be talking today about reflections of the ADA past, present and future. You will learn a little bit about the history and where we see the ADA going. The perspectives will be a little different than John writing regulations and my having the opportunity as a person with a disability to be able to deal with it and provide guidance to folks who have rights and responsibilities under the Americans with Disabilities Act.

I'm going to turn it over to John to talk a little bit about the history prior to the beginning of the ADA.

>> JOHN WODATCH: Okay. Thank you. I am delighted to be here with you and with everyone watching and listening in. Let's start -- I'd like to begin before the ADA, way before the ADA, throughout U.S. history almost, even though almost every American family had a member or a friend with a disability we were trapped in a culture of stereotypes and barriers. This culture of -- was reinforced by repressive and regressive state and local government actions, court decisions, and it was a fairly bleak time for people with disabilities who are isolated and segregated in our society and denied the ability to participate in most aspects of American life.

This picture began changing in the 1960s and 1970s. But even though it began changing if we took a snapshot at that time you would find very little accessible housing, very few accessible buildings, almost no public accessible rest rooms in our cities and towns. Children with disabilities if educated at all were educated in separate inferior institutions. Very little accessible public transportation, very restrictive employment opportunities for people with disabilities. And people with disabilities who are really separated were often separated from their families and housed in separate institutions that were underfunded. And in fact, warehouses.

This began changing in the '60s. The first law that we saw with the Architectural Barriers Act of 1968 that applied to the Federal Government and the buildings it was building, whether they are building themselves or providing grants or contracts for building them. And the Rehabilitation Act of 1973 which was the first federal effort to have a comprehensive Civil Rights law protecting the rights of people with disabilities, people I hope you are all familiar with Section 504 which was the beginning of the change about how we saw people with disabilities. We are undergoing what social scientists call paradigm shift. Instead of seeing people

with disabilities as objects of charity we were beginning to say oh, wait a minute, people with disabilities are citizens of our country. They have rights. They are entitled to participate in all the activities of government. It was a beginning, a beginning to look at empowering people with disabilities to treat them with dignity, to give them opportunities to participate.

Marian, you want to comment on that?

(Laughter).

>> MARIAN VESSELS: You know many of us with disabilities was just starting to learn what the laws were. And we know Section 504 was never really well-known or well enforced. And even today there is still many people that don't know they have rights and responsibilities under Section 504. So it provided a good basis and background. When I was injured in a car accident in 1974 I didn't realize that there were laws at the time that really did protect me. And when I went back to school in college, did find that there were protections that I had, some. But I was incredibly frustrated at the lack of my ability to be independent as a wheelchair user to be able to move around the community, to be able to determine if and when I could go places, what I had to do took tremendous amount of planning just to go out to dinner. We are so comfortable with cell phones now being able to call and check things on the fly. But not having that ability really looking back now I think we were kind of ostracized in so many ways.

In the '60s and '70s you didn't see people with disabilities out on the street as much. You didn't see them in a general setting as much. It was very difficult both with transportation, physical access and lack of accommodations. You rarely saw sign language, Braille, none of the things that we take for granted today or becoming to take more for granted today existed in that time period. There were lots of political actions that happened around people with

disabilities. As you said demanding their rights as citizens, taxpayers, as people who have the need to be educated, to be housed to get medical care. To be able to recreate and shop with everyone else. And the beginning of the ADA really made out by Section 504 really was a great foundation for us to work on.

>> JOHN WODATCH: Yeah, and during this -- during the '80s especially a number of people were coming to the conclusion that Section 504 and the other parts of Title V of the Rehabilitation Act, Section 503 wasn't enough. There was sporadic enforcement and no unit at the Justice Department or in most agencies that specialized on the rights of persons with disabilities. No focal point. The nature of Section 504 applied to recipients of federal financial assistance. And so think of a police department. One year it might get federal funds. So it was covered by 504. The next year they might not have a grant. So there was no Civil Rights protection. There are wide parts of the business employers who didn't receive federal financial assistance. So there wasn't even coverage under the Rehabilitation Act for them. So the idea was we needed something, we needed a comprehensive law and a number of factors came together. And I would like to talk about three -- what I think of three consents. I apologize, I'm a lawyer. I think of things in concepts of what motivated, of what became the ADA. These are parallel, what I would call parallelism and comprehensive and incrementalism. Parallelism, the idea behind the ADA was a simple one and a powerful one, was to give to people with disabilities a wide group of people with disabilities the same rights as the federal level that women in our society, that African Americans in our society, people of color had under the existing federal Civil Rights law just to give people with disabilities the same fair shake that everyone else had. Very simple, powerful idea.

So parallelism, and how you went about that was, and if you look at the ADA and you wonder how did it come about, why is it structured the way it is, people in Congress looked at the existing laws and said we are doing the thing for people with disabilities the same as we did for others. Provides protection on the basis of race, color, national origin, sex, religion. The idea it applied to employers, public and private who had 15 or more employees.

Okay. We are going to do the same thing for the ADA. Title II of the Civil Rights Act of 1964 covered public accommodations. It had a list of public accommodations. It gave people a private right of action. We are going to do the same thing for public accommodations. Giving to people with disabilities the same kind of protections that our Civil Rights law already had. The next idea that was a very important one was comprehensiveness. You had to have effective coverage and it had to be broad coverage. So the idea was a simple one. Think of a person, okay, we want the person to be able to have a job. So you have to cover employment. How is the person going to get to the job. You have to have some form of accessible transportation. Once the person has a job what are they going to do in the evening? Can they go to the theater? Can they go to sporting events? Can they go to the neighborhood bar? So it is important if we are talking comprehensiveness in our life to cover those aspects of our life. Also important to engage in your community, to be -- to live in your community, to be able to go to your local government, your state government and participate in decisions that are made about you in the laws of our states and cities.

And all of this wouldn't work without telecommunications being accessible. So the idea of comprehensiveness became a key feature of the ADA. We had to cover all those features of

American life to give people with disabilities the ability to participate.

And the last idea here is incrementalism and by that you have to realize this was in 1990 when the ADA was being considered, this was a major change. We had a Republican administration that was a conservative administration but very committed to the idea of a comprehensive law. President Bush who was the first President Bush had a campaign pledge that he would have a comprehensive law and to get people to be comfortable about it. They were comfortable with Section 504 because there had been a lot of regulations in the 1980s. Under the Reagan administration, the Department of Justice and over a hundred federal agencies had issued federal regulations. These 504 regulations had common language about the definition of what is a person with a disability and common language about what nondiscrimination is. People in the disability community were comfortable with those regulations. They had fought to get them issued and enforced. And so the idea of using the 504 concepts for definition of a person with a disability and for what constitutes discrimination were the ideas behind getting that language in to the ADA itself.

>> MARIAN VESSELS: Before we go on we are going to change to slide 17 talking about leading up to the passage. The ADA wouldn't have come about without the activism of people with disabilities. We had the basis for some of the laws and the structure, some of the enforcement. But it really was people with disabilities who started demanding their right as a citizen of the United States just like everyone else. So we saw massive protests. We saw sit-ins under Section 504 in San Francisco. We saw people climbing up the steps of the Capital, crawling up the steps of the Capital to be able to talk about how important their rights were. We were talking earlier about there are so many

people that were instrumental. Justin Dart went to every single state twice to rally support of people with disabilities, to educate those with disabilities about what the potential of the ADA was. And that was really a critical factor. Getting people with disabilities to tell their story.

I remember a part of the campaign to get the ADA passed was to send diaries, a day-to-day diary of what your life was like. I couldn't go to the grocery store because the grocery store had two steps. Or when I got in, there was nothing I could reach because it was all above my head. I couldn't get through the checkout scans because they were too narrow. People who were deaf were never offered interpreters and were struggling to make telephone calls. There were volunteer telephone operators that would relay calls to their doctors or to Pizza Hut to get a pizza. There was so many aspects that people with disabilities in learning about what the potential of the ADA could be rallied behind the passage of the ADA and it made a tremendous difference. And making sure that their voices was heard.

And I think that is one of the most exciting things to think about when you look at the power of people and the power of people with disabilities as we have seen since then. And I think that's one of the legacies now of the ADA is that people with disabilities have a right and responsibility, much like those who spent hours and days protesting to get buses accessible with adaptations or marching in the streets or doing sit-ins. Making sure that their rights were protected and this new revolutionary law called the ADA would come to pass.

>> JOHN WODATCH: I would like to follow up on that, especially Justin Dart's work in going to every state and having these diaries. These diaries became very important. Not only did they rally the disability community together in a cross disability way

but it also -- it changed the idea of the invisibility of the disability community. What was written in those diaries, the problems people faced in every -- their everyday life Justin brought these diaries and when he testified before Congress and he gave them to Congress, they became part of the legislative history of this law. And they were very powerful because it spoke to the members of Congress about the difficulties that people faced because of the barriers in their environment. Or because of the attitudes that existed because of the isolation and segregation of people with disabilities. So these diaries became a very important part of getting the word of people with disabilities out. Since we are talking -- Justin was an important part of this.

Another person who was known as the general at that time, Pat Wright, who is at that point in disability rights education defense fund, mobilized the disability community together in to a cohesive force. So it was incredible to see the organization that was there in the disability community. I'll give you one example and another person who was working at that point was Liz Savage. I don't know if it was Dred F or the Epilepsy Foundation. One day we were meeting in the morning with a congressman and he expressed some difficulty with some parts of the legislation we were considering. By that afternoon Liz through her network had contacted people in that congressman's district who called his office and said here are the ways we can deal with that. This is why we need this language. This is why we need that. That was very instructive in a couple of ways. It showed a member of Congress that this was a force of people to be reckoned with. They were organized and they got the information available. So it was a -- another part of that was the independent living movement that was in full force at this time which was a very important part of mobilizing the disability community to have their voices be heard.

So we were -- so we are involved in it. I should also point out that I was working in the Justice Department and the Attorney General of the United States was Dick Thornburgh who was a Republican. He himself was a parent of a child with a disability. So he understood the issues confronting people with disabilities firsthand. His wife Jenny is still a disability rights activist but also a governor of the state of the state of Pennsylvania.

So he understood the difficulties that states confronted. So he was in a very good position to understand all aspects of this and to be a point person for the administration and he was the point person. His testimony, there was a bill being introduced by Senator Harkin and Senate Kennedy had come to the administration. Okay, Mr. President, when you were campaigning you said you were for the Civil Rights bill and what was the administration going to do. This bill was pretty revolutionary. How do you come to terms with that? And Dick Thornburgh played a key role in marshalling the administration and getting them to support what became the ADA. And there were a couple of compromises on some issues but not on others that became important. And there was a long series of negotiations between the administration and disability community and members of Congress. I think one of the important things that came about was the extensive coverage of Title III which is public accommodations. There were a number of people in the administration who wanted to narrow that down. They weren't -- they didn't want it to be expansive. Or they wanted to have a size limitation or a grandfather clause. There are still people who think there is a grandfather clause in the ADA. There is not.

I think someone in the ADA National Network, someone once told me the ADA doesn't have a grandfather. It was adopted. There was no size limitation or grandfather clause in Title III that

deals with public accommodations. The businesses that serve the public and the reason for that statistical analysis showed if you had one of those it would decimate the coverage of the ADA because most of these businesses are small.

And so that was an important feature that got included in the ADA. But there were some cost issues that were worrying members of Congress and worrying the administration. So there are limitations built in to the ADA. They came from Section 504. Nothing that would create undue burdens which for Title I was a significant difficulty or expense or result in fundamental alteration in the nature of the program. They had been there and I think people were comfortable with those. It was also important to note there was no cost limitation when it came to the requirement that all new construction had to be accessible and why is this. Studies show that making a new building accessible didn't cost very much more. If you design a door to be wide enough, it doesn't cost more than designing a door that is a barrier. And so there is no cost limitation on the requirement that every building built after 1992 in this country that is covered by the ADA is supposed to be accessible according to the standards developed by the government.

The other feature that was important was the ability of people with disabilities to be able to go to court on their own. If we are really talking about having rights as a citizen you have to be able to use litigation as your tool. And that was an important part of the ADA that the disability being fought very hard for it. The administration compromised on that and said yes, you can have that, but they did not allow for compensatory damages. The Department of Justice when they brought lawsuits could get compensatory damages, money damages for someone who has been discriminated against as well as civil penalties. Those were basically the compromises that went back and forth that came

about that -- for those of you who study the ADA it is a complex law to understand. It is very broad in its coverage, but there are limitations on some and understanding how they work is something that takes some study, but fortunately the ADA had a couple of new ideas. And one of them was that every agency that enforced it had to provide what is called technical assistance which is public information about how to comply, what compliance is.

It also in a separate piece of legislation established the ADA National Network, our sponsor today for this session. And Marian is someone who can speak eloquently about what that meant. And I think one of the features that made the ADA as successful as it is is the technical assistance ADA information requirements of the ADA, requiring not only those who enforce it but others to provide information on how to comply.

>> MARIAN VESSELS: Absolutely. I think the ADA National Network in conjunction with the federal agencies became great partners and able to provide the technical assistance necessary to make sure this law was effective. As John has indicated it was incredibly broad. We have employers who never have requirements to hire people with disabilities and accommodate them. We had state and local governments who never received federal funds and that would tie them to Section 504. Private businesses were never required to provide access and services to people with disabilities in the broad basis that the ADA mandated as well as to telecommunications and others. So there is a huge demand for information and for one-on-one discussion. Luckily the powers that be decided there should be ten independent centers throughout the country in the different regions that would reach out and provide free technical assistance on the phone, in person training, remote trainings like we are doing today. And that's been happening now for a little over 28 years and providing this really

valuable service we think in making sure that the ADA became real, not only to covered entities but very often to people with disabilities and their families and friends that interact with them on a daily basis.

So the ADA National Network would work in developing a coalition, developing grassroots strategies making sure people with disabilities understood their rights and responsibilities. Working with the employer groups, working with society for human resource management. Other employment organizations and unions talking about what it meant to include people with disabilities in to the workforce. We did a massive outreach and face to face trainings going on site, making sure that people have their questions answered. Many of the questions you might imagine continue to be fairly nuanced and it is on a one-to-one basis. It is confidential. Teleconferences are free. So the people really hopefully get the kind of information they need. The national network developed a lot of information in plain English. Many times translating a little bit about what the federal regulations were or some of the larger technical assistance documents that the Department of Justice, EEOC, Department of Transportation and others developed the Access Board. And helping lay people to really understand what the legal language is and what it meant and more common vernacular.

So one of the things that I think the ADA National Network has done a good job of is translation of the ADA in to practical application, practical knowledge about how to move forward, what rights and responsibilities are, making sure that people understood their choices. As we all know the ADA is not hard and fast many times. But there is a lot of options that people can take. And we want to make sure that people know that range and be able to feel informed enough to go out and act on that. And to be able to

change the attitudes and concepts around people with disabilities being part of full inclusion within the American economy and the American workforce.

So we feel being somewhat biased that the ADA National Network continues to be a significant player in the enforcement to date and the application not only the letter of the law but really the spirit of the law, talking about the importance of including people with disabilities in to the mainstream of society where there is great benefit in having people with disabilities work, play, recreate, shop with everybody else.

>> JOHN WODATCH: Another feature that since we are talking about the passage of the ADA, at the same time there was a lot of concern in Congress about the costs and the costs were going to be borne by employers that would have to do reasonable accommodation by businesses that would have to remove existing architectural barriers, provide sign language interpreters, provide materials in alternate formats. They would be incurring costs. And there were no federal funds per se that were going to help them. So the idea became that we would amend and Congress did amend the tax code when it passed the ADA to give the -- there were two tax credits that would help small businesses and it was small business -- you could get up to a million dollars and could get a tax credit for changes that you made required by the ADA each year.

So the idea behind that was although the business would have to expand money for a sign language interpreter or putting in a ramp or making a rest room accessible, it could take and get a tax credit and putting some of the burden on the whole population through the tax code. I think that was a very important part. It was very underused at the beginning. I think the Justice Department and the ADA National Network spent a lot of time explaining to

businesses they could get this tax credit or a tax deduction as well for changes that they made. Very important part of this and defuses the argument that we can't do this. We don't have the money to do this.

The other part that became important was, you know, this wasn't a one time obligation. The ADA was passed and you either did or didn't do it. It is a continuing obligation. So a business might have a lean year and couldn't do everything they wanted to do the first year, but over a period of time of they would have the resources to remove existing architectural barriers or to provide sign language interpreters or materials on tape. Now we will get to websites and making those changes. But as times change there are other ways to make a business accessible and the tax credits are there for entities and the information is there to make the changes that they need.

>> MARIAN VESSELS: Absolutely.

>> JOHN WODATCH: Let's go to the ADA is passed.

>> MARIAN VESSELS: Right. So the next slide, is slide 17 or 18.

>> JOHN WODATCH: Wonderful.

>> MARIAN VESSELS: Yeah, the signing of the ADA. Both John and I were there. And really it is one of the highlights of my life.

>> JOHN WODATCH: And mine, too.

>> MARIAN VESSELS: Much like today here in the D.C. area hot and steamy.

>> JOHN WODATCH: Yes.

>> MARIAN VESSELS: And it was the most incredible as you can see from the pictures here thousands and thousands and

thousands of people on the White House lawn. As far as I know it is the largest signing of any bill to date. Because there were so many people involved, people were invited from all over the country to participate. I have never seen so many people with so many different kinds of disabilities all in one place celebrating. I really thought of it as the 4th of July for people with disabilities. It was the beginning of our Civil Rights. It was the Declaration that we did truly have the right and responsibility to be able to work, to be able to interact with government, to be able to go to places, to be able to listen and hear and move as we needed to. And all these people were there to celebrate and to see something historic. And it is something I will never forget. Just that sheer passion that everyone had.

Let the shameful walls come tumbling down. It was truly a magnificent day in the lives of many people with disabilities. And I hope as we continue to look forward to the ADA and its potential that younger people will still be able to appreciate the significance as they live with the ADA of this monumental day when Congress almost unanimously passed at times a rather controversial bill that talks about the rights of people with disabilities.

I remember hearing congressmen say, you have all the rights. No, I don't. And they have the rights but I didn't have the ability to do what I need to do when I want to do it. So it was the huge effort across all 50 states to be able to get people rallied around to assure that happened. And then this celebration and it happened very quickly. I think within about three weeks all these people amassing in to Washington to be able to see this historic signing.

>> JOHN WODATCH: It was a great day. I also had some other worries about this day which because there were a lot of requirements placed on the Department of Justice. I was an employee of the Department of Justice. And Dick Thornburgh who

had been the key point person on getting the ADA passed through in the administration was now the person who was responsible for getting regulations out. And I think justice learning from the lack of enforcement from the 504 and the idea there would need to be a focal point. So what happened to justice is they created a unit. It was the -- it began as the office on the Americans with Disabilities Act and at the beginning that was me and my secretary. It pretty quickly expanded beyond that. We became the public access section and later on we became what you know is the disability rights section under Janet Reno because no one knew what the public access system was. But we were charged with some -- we had a year to write a regulation. Sounds like a lot of time. And to come up with the standards for what is an accessible facility. And the way the law was written, the Access Board had to come up with guidelines and the Department of Justice had to come up with standards that conformed to those guidelines. We had to do that in a year period. We also had to issue a technical assistance manual for both Title II and Title III, explaining in plain English terms what the ADA meant.

So the onus was on us. We also had to set up a technical assistance program because that was required. So there were a number of things that we had to do in the first year. And we had limited resources, more than two people. How did we approach that? I think it is our idea was to give full meaning to the new law with the resources that we had. That meant having extensive coverage. We wanted to ensure there was full relief, that we used litigation, that we used technical assistance. There was a requirement for the certification of state and local building codes in the ADA. There were a lot of activities that we began. We were also in the process of hiring people to do some of these activities. We were fortunate to be given the ability to hire ten people which

was a huge change for us to do that.

We were trying to balance big cases with small cases, give meaning to individual complaints, review complaints. If there are an attempt to give voluntary compliance where people wouldn't do voluntary compliance, use our ability to sue. All of those were our activity, but the overriding part of our goal was to build support for the ADA. This was a new law. We want the public to understand it. We wanted to keep our focus on fundamental issues who wanted to stay away from frivolous things because we wanted to give meaning to what this law is.

And so that was what we did at the beginning. I said this before, I love this and the first day after the ADA was enacted we got an idea of why there needs to be public education. Why we needed the ADA National Network. Why we needed a justice to have the ADA information line that we established. We got a call from a hotel in North Carolina on the day after the law was passed and he said did you people up there, pass some law about people with disabilities and we said yes, we did. Why are you asking. And he said well, a person in a wheelchair came to my hotel last night and said there was a law that gave that person Civil Rights and they were entitled to the best room at the cheapest price.

I took a breath for a minute and said what did you do. I gave them the best room at the cheapest price. That's not what the -- the ADA did require there be accessible rooms. And so it pointed out the need for education for businesses and for the education for people with disabilities.

So what was our goal? Our goal was -- we started getting flooded with complaints. And we tried to balance big issues with small issues, precedential issues. One of our first cases was making the Empire State Building accessible. It is a symbol of the United States. And we did some negotiations and we are talking

about taking an elevator to the observation deck. And one of the things that wasn't accessible there was no place for a wheelchair user to look out. So we told them they would have to drill, take some of that down. They have said it was -- that's an architectural landmark. We can't do that. And we looked at it and said we think we can preserve the architectural landmark. Saturday Night Live had in their weekly update, a comment and it said and had a picture and they said this week the government made the Empire State Building be accessible. The ramp starts in New Jersey and goes across the river and which was a great idea because it got the idea out that this law was going to be enforced and it was important. It covered a lot of things, including what we do every day as citizens.

But we also balanced that with we started getting a lot of complaints from people who are deaf, blind people who couldn't be jurors. Deaf people who are having difficulty at hospitals and not having interpreters. These were a lot of the blind people who are taking the SAT but couldn't get the exam in accessible formats. These were a lot of the early cases that we concentrated on. A lot of them were barriers in restaurants, inaccessible parking and barriers at shopping malls. These were the early activities. And things that you might not even think about. We had a case, check cashing, in order to cash a check at a department store you needed to have a driver's license. A blind person couldn't have a driver's license. A state issued I.D. is the same as a driver's license. It was very elemental stuff at the beginning. And our technical assistance efforts were very elemental explaining what an architectural barrier, what you have to do to make it accessible. The 911 system, not being accessible to users who are deaf -- I think in the -- in the early years we had over 500 settlement agreements with local governments trying to make their systems accessible.

>> MARIAN VESSELS: The ADA National Network also found a lot of reasonable accommodation cases that we would get under the employment provisions. Many employers and people with disabilities really didn't understand the requirements of the Title I provisions talking about how to accommodate a person with disabilities. Making sure they knew there were tax credits and deductions, but also the practical application and the ADA National Network in addition would work with the Job Accommodation Network where we partnered, talked to a lot of employers and workers with disabilities about what the law talked about and how it could be done efficiently and effectively. What kind of accommodations to be -- could be made. Helping people think outside the box and how to accommodate individuals with disabilities. Reminding them to go back and talk to the person. Find out what resources are around in their community. And as assistive technology became more and more a player, became much cheaper and readily achievable for many people with disabilities to be accommodated in the workforce.

We had a lot of calls from people saying where I do hang the grab bars. We are getting ready to do it right now. How do I do a 1-in-12 ramp. How do I do any number of things. We found we were providing a lot of nitty gritty on a day-to-day basis to practitioners in order to make sure that they understood what their requirements were in order to assure full compliance.

>> JOHN WODATCH: Before we get to the future of the ADA, I would like to talk about some of the things that I think are the success of the ADA over this 29-year period. And I think a lot of them deal with the physical environment that we are in. I mean I think if you look at accessibility today versus when we started this process, it is a very different country that we live in. We have town halls and city services that are accessible, sports arena, movie

theaters, courtrooms, hotels, rest rooms, shopping malls are accessible. Our transportation system, especially our city buses in our cities are now 100% accessible because the requirement of the ADA was not to retrofit existing buses, but when a city replaced a bus it had to get an accessible bus.

So since the useful life of a bus is 10 to 15 years, now we have fully accessible city bus fleets. Education, the idea of -- the Individual with Disabilities Education Act, that a free, appropriate public education is required for all students with disabilities no matter how severe their disability. Every child with a disability can learn and is entitled to learn with an education approach that meets their needs.

As one of the major changes, I think I have seen in a -- if you look at the most recent statistics for our colleges and universities, over 12% of the students in our colleges and universities are now students with disabilities. When we began there were very few and that really speaks to the future for me. The use of sign language interpreters in courts, in doctor's offices and hospitals and with the police is a changed system. Service animals are now welcome most of the time, although I would say one of the surprises for me over this 29 years is the number of questions that we still get about service animals in our public accommodations. The Olmstead decision in 1999, but the idea that the unnecessary institutionalization of people with disabilities in separate institutions is in and of itself a violation of the ADA. This is a -- this decision which we just celebrated its 20th anniversary is a work-in-progress. We are still undoing our segregated system, but we are working at it and it is one of our works in progress.

The idea of reasonable accommodation and the information that the EEOC has provided over the years about how to accommodate people with disabilities with a wide variety of disabilities in the workplace is very important. I think the difficulty

we face in the employment area was that terrible line of decisions limiting the definition of who is covered by a person as a person with a disability under the law. We had a series of terrible in my view decisions that misapplied what I think were the standards of the ADA but they -- but the good news in 2008 in the ADA Amendments Act we went back to what is the expanded definition of a person with a disability that befits a Civil Rights law. The Civil Rights law should cover all people with disabilities, from those with HIV, from those with psychiatric and psychosocial conditions, those with intellectual disabilities, those with physical disabilities across a wide range.

>> MARIAN VESSELS: I think that the ADA -- the Amendments Act really did a huge shift change for the ADA because we were slowly, slowly eliminating many people with disabilities. And I think it reinvigorated the community in talking about employment as being such a critical factor. Even today employment still is a huge challenge. And that change at least brought the employment provision back to the forefront and got us moving, I think re-energizing both the employment community and people with disabilities on focusing on the employment provisions. And then something, the new regulations that came out after that that continue to grow.

One of the things that I think is most exciting about the ADA is it is living and breathing. As technology changes, as the need changes, we are seeing more and more accommodations being made and more regulations coming out, talking about standards and inclusion of people with all different kinds of disabilities by looking at the technology that exists and some of the continued challenges we have in that arena.

>> JOHN WODATCH: Since we are on challenges and we want to get to questions in a few minutes, let's talk a bit about the

future. My view of the most -- one of the most difficult things is still continued unemployment or underemployment of people with disabilities. Statistics show that approximately one-third of working age people with disabilities are employed, but if you compare that to the abled bodied population it is half. Two-thirds of people, able bodied people are employed. So we still have a long way to go to get people jobs, to get them employed, to get them employed at full pay, not less than the minimum wage for the job that they are in. And I think we are making change -- the future is bright here, but it is work in progress. There are ways that we have to do this in terms of training and mentorship and moving out discrimination. It may be that we have to since most new jobs are with employers that have fewer than 15 employees and the ADA only covers employers with more than 15 perhaps that is something to address in the future as a statutory change. But I think employment remains one of the most difficult problems that -- and some of it is tied to the ability to have health insurance and giving up your Medicaid coverage if you get employed. And we worked on that issue, but the unemployment issue is I think one of the large issues on our agenda for the future.

>> MARIAN VESSELS: I totally agree. I think it is a huge obstacle that we have. One of the other things that I feel so important about are stigma of mental health is still incredibly prevalent and the access to mental health services for folks who are deaf making sure that we get appropriate sign language available, the stigma that exists saying that you can't possibly work if you have a mental illness, that if you do so that you are a risk, that you are a threat to our coworkers and all of those issues are huge. And I think that's going to be a growing issue under the ADA.

>> JOHN WODATCH: Another piece of that are young people in our country with mental health issues and the lack of services for them is a contributing factor and tying to that students who are in elementary and secondary education institutions who may have IEPs who are not being fully funded and the whole school to prison pipeline. What happens the student drops out or they are suspended or they are sent to juvenile detention centers and lead to really a life of lack of services and the inability to be employed. In to prisons, we -- I think we have recognized this as a problem. The education department has taken some steps. We all have taken some steps. We have to invest the money when these children are -- children and teenagers get them the right services and training so that they are not -- so that we are not spending huge amounts of money in our prison system to keep them segregated from our society.

>> MARIAN VESSELS: The growing trends we are seeing in the ADA but still a huge barrier is access to medical care for people with disabilities. Getting the right kinds of support needed in order to get the services that people with disabilities need. And it is complex. It is getting the transportation to and from. It is training staff. It is getting the awareness, but a lot of it is the technology, having lower tables and having the technology that will adjust to people with disabilities as opposed to have them adjust.

>> JOHN WODATCH: I hope we all realize that the Access Board under a separate law has final -- has issued at the end of -- within the last two years standards for what is accessible diagnostic equipment. Unfortunately there is no regulation by justice or by other federal agencies that require those standards to be followed. But that is a next step. Unfortunately this administration is -- doesn't believe in the regulatory process to the same extent that those of us in the past have. And there is no

movement at the present time to issue new regulations that would require hospitals, doctor's offices, other medical providers to have accessible equipment. Of course, they should have that. There are standards that are in place but there are difficult issues. It is not just the equipment. It is how they are placed. How they are used. How people are trained to use them. It is a complicated issue. And it requires action by the Federal Government to provide information that would not be forthcoming in the immediate future unfortunately. And while we are on that issue, let's talk about accessible technology.

We live in a different world than we lived in even 30 years ago. We live in a digital world in many ways. How we get our services, how we interact with one another, we do on websites. We use apps. Ensuring that they are accessible is a very important part of the ADA. Of course, when the ADA was enacted the Internet didn't exist as we know it. There are those who say the ADA therefore doesn't apply to, you know, the digital world. I disagree with that personally. And the Federal Government has disagreed with that.

I think the first statement came in 1996 from the Department of Justice. There have been a number of settlement agreements that the Department of Justice has been involved with it. Private litigation and National Federation of the Blind has done amazing work with bringing this issue to the floor through litigation. But unfortunately, the Federal Government in 2010 started the process of moving towards having regulations that addressed accessible technology requiring it for the ADA. The Trump Administration has pulled back on these regulations and is -- does not have it on the regulatory agenda to move forward during this period of time. I think that is a mistake and we should reconsider that, but that won't happen -- but that doesn't mean that technology should not be

accessible. There are -- if you look at litigation there is a huge amount of litigation going on under Title III in our country. And it may reach the Supreme Court.

One that we will keep an eye on may make it to the circuit court but the 9th circuit has said that the ADA does apply to websites that were used to order a pizza there. How that will turn out remains to be seen, but I think this is a cutting edge issue but it is -- if the -- the ADA is about achieving equal opportunity, self-sufficiency for people with disabilities. In our digital world that is part of our -- part of what everyday American life is I think the ADA covers that. That is one of the challenges on our plate right now.

>> MARIAN VESSELS: I think as we wrap up the future, I think the future of the ADA is ADA generation, folks like Meghan and others taking up the mantel and going from this basis, this good solid basis but expanding the horizons of the ADA on other Civil Rights legislation. Lots of talented really incredible young people knowing what their rights and responsibilities are. Looking at new barriers and what can be done. Taking the mantel and running forward with it. And we see tremendous energy within them. And that brings me hope that the ADA will live on and grow as other rights and responsibilities for people with disabilities continue to be enhanced.

>> JOHN WODATCH: Let me just conclude by agreeing that I think that the idea of this ADA generation, this group of people with disabilities who have -- were born after the ADA and who are not going to go back to what we talked about before, they are not going to be second class citizens. There is a whole looking at the whole range of people with disabilities, the idea of intersectionality, the idea that there are people of color who are also disabled people whose language is morning English and who have disabilities and what -- looking at the total person and their rights as a person in our

society and how we come to grips with that both in the leadership of the government and of the disability rights organizations, but dealing with these issues I think that the future, the energy that's coming from that, the change that will take us in to the future is I'm very optimistic.

>> MARIAN VESSELS: Turn it back to Meghan.

>> MEGHAN JONES: Okay. Thank you. So we'd like to open -- ask the audience to open up some questions.

>> JOHN WODATCH: Okay.

>> MEGHAN JONES: The past what affects would HR620 have on the ADA?

>> JOHN WODATCH: Okay. I will start. Let me start with the past, no, we are not going to have a past. 620 is a piece of legislation that was passed by the House of Representatives in the last Congress. And it was an attempt to restrict the ability of people with disabilities to file lawsuits against public accommodations on the issue of barriers, physical barriers unless they first gave notice to the entity and the entity had 60 days or 90 days to try to deal with it. And they didn't even have to remove the barriers. They had to start and make a credible effort to do it. I think it was a weakening of the ADA. And the question was if passed what affect it would have. I think it would have a very large impact because the ADA, you know, really relies on voluntary compliance. It relies on the goodwill of businesses to comply with what the laws of the United States are. Go they -- we have seen over the past 29 years businesses take what is -- what we call the wait and see attitude. We are not going to remove barriers. We are not going to do that. We are going to wait until someone sues us. That wait to see attitude would be encouraged by a law like 620 which is not even -- doesn't even address the issue that

members of Congress hope that it would. There are those who think there are too many ADA lawsuits. I am not one of those. There are -- say there are 3 to 5,000 or 6,000 lawsuits every year under Title III of the ADA. Even if -- if you look at the President his ADA proclamation this week there are 61 million people with disabilities in this country. There are 7 million public accommodations. If you put all of those interactions together that number of lawsuits is very small. I do not think we have a problem with too many lawsuits. I think our problem that people with disabilities is facing barriers and not having a way to get them removed. And 620 will take away the need for a business to comply with the ADA until someone comes to them.

>> MARIAN VESSELS: And it is the only proposal that would say that as a civil right you have to wait until you give someone notice before you can do anything about it. And that's unacceptable.

>> JOHN WODATCH: I should also point out I don't think a bill has been introduced yet in this Congress. I think we have heard from members of Congress the unfortunate part there was some bipartisan support for 620. There were some Democrats, a few Democrats who supported along with the Republicans. But I think that we have heard from at least this House of Representatives that that bill will not move forward in this Congress. That doesn't mean it won't come up again in the future. And I think we have to be vigilant. I think one thing that people need if there really is a problem with people not understanding we need more education. In the early days of the ADA there was a lot of money for training people with disabilities for giving money to businesses to understand the ADA and maybe instead of 620 we need funds that go to federal agencies, more money to the ADA National Network to get more information to people so they know how to comply.

>> MARIAN VESSELS: I agree.

>> JOHN WODATCH: Another question.

>> MEGHAN JONES: Next question, have there -- have there been any height requirements adopted for beds in accessible hotel guest rooms?

>> JOHN WODATCH: I'll start. One of my regrets is I couldn't get this done while I was still in the federal government. There are no -- the answer, the easy answer there is no regulation written by a federal agency that said that. However there has been a lot of action by people with disabilities in their organizations to address the idea that -- and I think some hotel chains are beginning now to deal with this on their own, based on pressure from disability rights organizations. For those who might not know the idea our hotel beds are getting taller and taller. And for many wheelchair users it is an Olympic event to get in and out of a bed in a hotel in the accessible room. There have been some studies showing what the accessible height should be to be an accessible bed which has some give in it for the range of a wheelchair user. I think the idea of 17 to 19 inches is too low. Once you are in that bed you could never get back to your wheelchair. I think 22 to 23 inches is the idea that there is nothing that I know that has put any of that in a requirement yet, although every time I talk to a hotel chain I raise this issue because I have too many friends who cannot -- who when they get to a hotel room have to have the people come up and take the mattress so they can use their -- the accessible room.

>> MARIAN VESSELS: Right.

>> JOHN WODATCH: Have you?

>> MARIAN VESSELS: Some of the major chains are aggressive looking at their new bed designs in order to make them more accessible because they are starting to get complaints not

only from people with disabilities but others saying they are tired of catapulting in to bed.

>> MEGHAN JONES: Next question.

>> MAYNOR GUILLEN: The next question, what is the status of guidelines for accessibility in public rights-of-way?

>> JOHN WODATCH: This is -- the Access Board has been working on the public rights-of-way guidelines for a long time. They were very close to coming to them but they did not get them approved unless administration, this administration has a different approach to its regulatory process. And so at the present time there is no movement to issue those public rights-of-way guidelines.

One reason for that there is a federal -- an Executive Order that the President has issued that said if you want to issue a new regulation you have to get rid of two existing regulations. For the Access Board to do that they would have to get rid of two existing guidelines and that's an inappropriate way to develop the guidelines and standards. I think we in the foreseeable future you will not see guidance on public rights-of-way.

>> MEGHAN JONES: Next question. Are there any courses that I can take as a full-time wheelchair user with CP to deepen my knowledge of the ADA?

>> MARIAN VESSELS: What a great question. Yes, there are. If you go to [www.adata.org](http://www.adata.org) you will find a plethora of information. There is an ADA course. There are webinars that are recorded and you can take all for free. I applaud you for wanting to learn more about your rights and responsibilities under the ADA. So I really encourage you to check out the many resources that you will find under the ADA National Network's website. I also encourage you to connect with your local ADA

center at [adata.org](http://adata.org). You will find the link to your region by going to the map and clicking on it. I would encourage you to connect with your regional ADA center, find out what's going on and what they are sponsoring and work with them as well to be able to enhance your knowledge around the ADA.

>> MEGHAN JONES: Okay. Here is the next question. Can you address the (inaudible) presentation and whether ADA is looking at making changes to the shows in the law?

>> JOHN WODATCH: I will take that. First of all, keep in mind under this administration I don't think you will see any ADA regulations in the next two years. I mean the administration has made very clear that they think we -- that the government has overregulated business. So there is not going to be more. And the number of states have issued -- have -- have put in place laws that make it a violation of state law, sometimes the criminal code, to misrepresent that you have an animal as a service animal. I think over half the states now have laws that say that. I am not familiar with them being enforced. I know that they are there. But I don't think I will -- you will see any change at the federal level dealing with that issue.

>> MEGHAN JONES: Next question.

>> MAYNOR GUILLEN: The next question is where can I find resources for training staff on all aspects of the ADA?

>> MARIAN VESSELS: Oh, there is a plethora on the ADA National Network's [adata.org](http://adata.org). You will find a lot of information about self-courses, training materials and resources. The Job Accommodation Network also has a tremendous amount of information on the employment provisions. And there is modules and training courses that you can take there. You can call your regional ADA center and talk with them about getting a customized

training to your business and your needs. So there is lots of resources out there. It will take one phone call to 1-800-949-4232 voice or TTY to be able to explore what your specific needs are and what those resources are.

>> JOHN WODATCH: Also there are -- the agencies that enforce these laws have a lot of documents on their websites. The EEOC has an incredible wealth of information on their requirements on reasonable accommodation. There is a lot of information there. The Department of Transportation has a lot of information on accessible transportation requirements of all forms and the Department of Justice at mda.gov has a number of document explaining specific issues like service animals, voting accessibility, Olmstead issues, HIV issues and the Access Board if you are interested has a wealth of incredibly good information on how to make a wide range of facilities accessible. There is plenty of information available for you.

>> MEGHAN JONES: Next question. How can I file complaints under the ADA?

>> JOHN WODATCH: I'll -- well, it depends which title you are going to file under, but if you are going to file a Title I -- if you are filing an employment complaint you would file it with the EEOC. You can do these things online. Or you can do them by writing -- by going online and getting the address of the EEOC local offices. You can send it -- if it is state or local government or a public accommodation you can file a complaint with the Department of Justice by going to ada.gov and getting the information there. You can also file complaints with other federal agencies if you have a relationship with them. So, for example, if it is against a college or university, you can file it with the Department of Education. If it is an agricultural funded service program, you can file it with the Department of Agriculture. The important thing to do with a

complaint is to file it quickly. Because the time -- there are time constraints, usually 180 days from the act of discrimination. The important thing is to get it in to the federal system. If you don't get it to the right place, the federal agencies have a responsibility to help you and get it to the right place.

>> MARIAN VESSELS: Don't forget you have similar rights that parallel the ADA so that you can file with your state human relations commission and other entities within your state and local government. So take advantage of those resources as well.

>> MEGHAN JONES: Okay. That's all the time we have today. This concludes today's webinar. We realize that some of you may still have questions. We apologize if you did not get a chance to ask your question. Please contact your regional ADA center for follow-up questions at 1-800-949-4232. Thank you for joining us and have a good day.

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