

Disabilities Project Newsletter

Accommodating a Person with a Visual Disability in the Legal Process

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If you are an attorney, no doubt at some time during your professional career you will encounter a client, witness, or an opposing party who has a visual impairment. While it is difficult to obtain exact statistics on persons with visual impairment and how serious those impairments may be, statistics from the National Center for Health Statistics indicate that 10,000,000 people over the age of 16 in the United States have a functional limitation in seeing. Of those 10,000,000 people with sight limitations, 1,300,000 are legally blind. To be legally blind means that a person has a visual acuity of 20/200 or less in the better eye with the best possible correction, or a visual field of 20° or less. In other words, a person who is legally blind can see at 20 feet or less with glasses what a person with normal vision can see at 200 feet, or if a person has tunnel vision, they can see a visual area of 20° or less as opposed to a normal visual field of 180°. Of the 1.3 million persons who are legally blind, 260,000 have light perception only, and another 130,000 have no vision at all.

Courthouses and buildings that contain attorneys' offices must have facilities that comply with the Americans with Disabilities Act (ADA). The ADA includes requirements for making a building more accessible to a person with a visual impairment. The most important requirement concerns elevator service. The call buttons for an elevator must have tactile raised letters or arrows on the Up and Down buttons. The floor indicators inside an elevator car must be in Braille and raised numbers. An elevator must include audio indicators to indicate whether the elevator is going up or down, and to indicate the passing of each floor. Despite the ADA regulations, many buildings constructed before 1991 do not have ADA-compliant elevators. It is the responsibility of the landlord or the municipal building authority to ensure compliance with these ADA regulations. The tenant, however, can also insist on ADA compliance. This compliance will greatly assist a visually impaired person who must visit an attorney's office or courthouse.

In addition to ensuring building compliance, an attorney can do many things to accommodate a visually impaired client. If your client is visually impaired, determine the degree of the impairment. Although a person may appear to have sufficient vision, he or she may have great difficulty in reading. This is particularly true with elderly clients. Many older people have a vision loss, but are reluctant to talk about it. You should tactfully inquire whether a client may have a problem reading because of a visual impairment. If a client has difficulty reading, read all documents to him or her. After the reading, ask the client if everything was understood, or if any

information should be repeated. If a document requires a signature, include a notation that the document was read to the client before signing. When handing a document to a visually impaired person, indicate verbally that you are handing a document to him or her.

If a client with a visual disability must appear in court, ensure that the client has a way to get to the courthouse and make transportation arrangements if necessary. Before the date of a court appearance, take the client to the courthouse. Show the client where to enter the building, and walk through the metal detection process. When court is not in session, walk the client through the courtroom. If the client is participating in a trial, have the client sit at the counsel table. Ask the client to sit in the witness chair, and indicate where the jury box, judge, and attorney's podium will be in relation to the witness chair. Take the client into the hall outside the courtroom and point out the elevators, exits, restrooms, and any other facilities located in the hallway. Finally, ask the visually impaired client if any other special assistance is needed to facilitate the trial process. Doing this beforehand will put the visually impaired person at ease on the day of the court appearance.

Inform opposing counsel, the judge, court staff, and jurors that a party or witness has a visual impairment. This will explain why some assistance for the person may be necessary.

If a client needs assistance getting around because of very limited vision, ask if you can help. If assistance is needed, do not take the person by the arm, but rather let the person take your arm. This will make maneuvering around objects and moving up and down stairs and through doorways much easier.

Frequently during the course of a trial, a witness is asked to read from an exhibit or from a deposition. Advise a visually impaired client of that possibility and inquire whether this would pose any difficulty. A little thing, such as reminding a client to bring his or her reading glasses to court or having a pre-arranged plan to help a client read something in court, can save the client from embarrassment. Also, inform the client of gestures made by a witness if they are not indicated on the record. If photographs will be used as exhibits during a trial, describe the photograph to a client who may be unable to see the photo before it is used in court.

If a client or witness has a guide dog to assist in travel, do not distract the dog by talking to it or petting it. If a person with a guide dog must appear in court, ask if the dog requires any accommodations.

When selecting a jury, an attorney should tactfully ask if any juror has a visual impairment that requires accommodation. Many people with visual impairments want to serve on a jury. Generally speaking, people with severe visual impairments rely greatly on their hearing, so listening to the testimony is not a problem. An accommodation, however, may have to be made if a photograph or a written document is introduced into evidence. The witness may have to describe the photograph in greater detail, or the document may be read as a part of the record for the sake of the visually impaired juror.

We hope that the suggestions described in this newsletter will assist the attorney and the client in accommodating a person with a visual disability in the legal system.

References

The Americans with Disabilities Act—42 USC Sec. 12103.

National Center for Health Statistics, National Health Interview Service Disability supplement (1994-1995), <http://www.cdc.gov/>.