

BUSINESS MONDAY

MY VIEW

The disabilities act still presents challenges

BY DENISE BLEAU
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We just passed the 20th anniversary of the Americans with Disabilities Act, known as the ADA, a great milestone in American History.

The ADA was initially signed into law by President George H.W. Bush in 1990 and was significantly amended in 2008 to broaden its scope and application. The law seeks to provide physically and mentally disabled individuals the opportunity to live and work within the fabric of our society on equal footing with everyone else. It requires businesses, public buildings and transportation systems to make their facilities accessible to the disabled, and prohibits employers from discriminating against employees or applicants on the basis of disability.

I have witnessed firsthand the effects of this legislation - not all of it good. There have been many positive changes. Most buildings and public facilities are now accessible to everyone. The law has assisted many highly qualified disabled individuals in securing or maintaining employment that would have otherwise been denied to them.



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Generally, the costs or inconveniences of providing necessary accommodations are far outweighed by the benefits gained from this richly talented population.

But the law has also created certain challenges for struggling businesses and invited much abuse. In a day and age when many people try to avoid hard work and taking responsibility for their own behavior, the ADA has provided many unintended consequences.

There are a number of individuals who have sought to use the ADA as a weapon to challenge their otherwise proper termination of employment. Some have used the law in an attempt to avoid difficult or tedious tasks in the workplace. Frequently, employees claim a demotion or disciplinary action was taken because of some alleged disability. I have seen many instances where employers charged with discrimination were not even aware of the alleged "disability" before making

their employment decisions. Also, as lawsuits carry the threat of attorney's fees for the plaintiff, cases often must be settled even if they could have been won at trial, but at too great a cost and risk.

Employers, employees, lawmakers and community activists must continue to work together to reach to ensure that everyone is provided a fair opportunity to compete without unduly taking advantage of businesses acting in good faith.

The current state of the ADA and related compliance activities requires constant vigilance. A properly prepared ADA Compliance Plan and Employee Manual can prevent most violations and provide an effective means of addressing violations if they occur with minimal additional cost or liability.

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