

# CHICAGO LAWYER

VOLUME 21  
A PUBLICATION OF THE LAW BULLETIN  
NUMBER 7

August 1998

\$4.00

## Physically challenged lawyers challenge others' perceptions

by Mary Wisniewski Holden

No one told attorney Lawrence B. Brodsky that he was being denied a job because of his cerebral palsy.

Brodsky said he just knew: "You can't help knowing in your mind that was the excuse."

Brodsky, 63, a partner with Rieff & Schramm, ran into problems finding his first job back in 1961, before the civil rights movement, and before the 1990 Americans with Disabilities Act made discrimination against people with handicaps against federal law.

But Brodsky and other attorneys with physical handicaps say that with or without the ADA, they must fight the perception that they are unqualified, even if the perceptions are never put into words.

"Generally, people get very panicked when [they] see people in wheelchairs . . ." said Kael Kennedy, a partner with Schuyler, Roche & Zwirner who has lost two legs to a hereditary blood disease. "There are a whole bunch of people who look at [the wheelchair] and think I'm stupid, like I'm in diapers or something."

Kennedy said that lawyers and judges are no better or worse than the public in ignorance about physical disabilities. They need to be educated, to learn that disabilities vary in type and severity, that a physical disability does not mean a mental disability, and that restaurants and other public places need to be wheelchair-accessible.

The public must realize that "as long as your mind and your mouth work,"

an attorney with a physical handicap "is pretty set as long as they don't have high curbs at the courthouse," said Kennedy.

But while anti-discrimination law is making some things such as accessibility easier for physically challenged people, the colder atmosphere of the legal business has actually made the perception problem worse, according to Barry McNamara, an adjunct professor at Northwestern University School of Law who has multiple sclerosis.

By his own choice, McNamara, formerly a partner with D'Ancona & Pflaum, no longer practices because his illness "made it impossible."

Speaking in general and not about his old firm, McNamara said changes in the practice of law may make lawyers with physical handicaps unwelcome at many big firms.

"The practice of law has changed so vastly in the past 25 years and has become so much more businesslike and less collegial that I think that almost anything that tends to take away your competitive edge is viewed negatively," said McNamara. "A big firm litigation practice is very competitive, so any little bit of competitive edge is something people look for."

Brodsky's cerebral palsy was caused by a problem during his birth. It makes walking difficult and his speech hard to understand until a listener is accustomed to it.

His parents wouldn't let him give in to self-pity but encouraged him to do

the best he could with what he had.

"I was really fortunate to have the parents I had," said Brodsky, who grew up in Hyde Park.

He also was inspired by a doctor who ran a summer camp for cerebral palsy patients.

"He probably had a worse case than I do," Brodsky said. "When I look back on it, I think that was my source of my wanting to do something above and beyond."

After graduating from DePaul University College of Law in 1961, Brodsky received a special accommodation to take his bar exam. He used a typewriter since his handwriting is unsteady, but a scribe sat beside him during the exam to handwrite his response in the answer book "so there'd be no chance that any of the examiners would know who I was and what I had," Brodsky said.

But after passing the bar, Brodsky had no luck interviewing with law firms.

"You've got to realize that people aren't going to come out and say that because you have a physical disability, you can't hack the job . . . There was discrimination, very subtle. If I had to prove it, I couldn't."

Like racial minorities and women breaking into the legal business, Brodsky had better luck with the government than with private firms. He landed his first legal job with U.S. Army Materiel Command, advising on government procurement and contracts.

After nine years with the Army, Brodsky worked from 1970 to 1987 as



Lawrence Brodsky of Rieff & Schramm says perceptions still exist that lawyers and others with physical disabilities are unqualified for their jobs.

a Cook County assistant state's attorney, concentrating in real estate tax issues.

In 1987 Brodsky went to Holleb & Coff. When Holleb shed its real estate tax department, Brodsky joined Rieff & Schramm.

"We call him Lawrence of Assessments," said Mel Rieff, who also worked with Brodsky in the county office. "I don't think anyone's gone through the State's Attorney's Office that hasn't learned something from Larry."

Brodsky said his main difficulty in practicing is the physical effort of getting to the courthouse, which sometimes makes him tired. He said his speech problem may give him an advantage in court.

"They make an extra effort to hear

what I'm saying," he said with a grin. He said he never ran into any prejudice from clients, judges or other lawyers.

"The only handicap is the handicap his opponents have because they're dealing with a superior lawyer," said Thomas McNulty, a partner with Neal, Gerber & Eisenberg who had supervised Brodsky at the county office. "He was one of the guys you'd put on the tougher cases."

Though well-regarded by attorneys and judges who have worked with him, and though he was found "highly qualified" by The Chicago Bar Association, Brodsky failed at three runs for associate judge in 1979, 1984 and 1986.

Asked if he thought he missed making judge because of his handicap, Brodsky said he didn't know.

"You want to think judges are way above that type of thinking," Brodsky said. "But you also have to understand that they're human."

Other attorneys with physical disabilities have made it to the bench. Theodore F. Burtzos, who is deaf, has served as an associate judge. He is now a Cook County assistant state's attorney. Cook County Associate Judge Nicholas T. Pomaro is blind.

Attorneys who use wheelchairs report that the Cook County and federal courtrooms are wheelchair-accessible. Translators are available for deaf people.

If an attorney or litigant with a physical disability ever has trouble working in a courthouse in Cook County Circuit Court, the case can be moved, according to Chief Judge

Donald P. O'Connell

"Judges are extremely sensitive to the special needs of disabled persons with respect to our providing maximum accessibility to the court," O'Connell said. He recalled one case in which a litigant had a fear of elevators. The case was moved from the Daley Center to the first floor jury room at 321 N. LaSalle St. It settled prior to trial.

But often attorneys have to go places besides the courthouse to do their jobs — and these places may pose a problem for wheelchairs, according to Linda Mastandrea, a solo practitioner with cerebral palsy.

Mastandrea, 33, a champion athlete who has set world records for speed at wheelchair races, said she was unable to get her chair into a room reserved for attorney-client conferences at Stateville Correctional Center and instead had to meet a client in a crowded common room.

She also was unable to get her chair into a judge's chambers at the Dirksen Federal Building, requiring the judge to hold an in-chambers conference in the courtroom.

And though the rehabilitation of the Dirksen Federal Building means she

can now reach the buttons on the elevators, Mastandrea said she still has problems with the furniture arrangement in front of the bench.

"I have to move the chairs around. And of course, the podium — forget it — I have to pull up alongside. It puts me at a little bit of a disadvantage," Mastandrea said. She said she also "feels like a little kid" looking up at the judge from her wheelchair.

Mastandrea specializes in disability law, and she said judges and lawyers often mistake her for her client.

"I'm always getting called 'plaintiff.' I guess that's a natural assumption," she said.

Unlike Brodsky and Mastandrea, who have suffered from cerebral palsy since birth, Kennedy became disabled later in life and had to get used to the idea.

Kennedy, 57, lost his first leg 20 years ago and was able to get around on a wooden leg, "carrying a 60-pound litigation bag."

"I never thought anything about it," said Kennedy.

But Kennedy lost his second leg three years ago, and that's when his attitude changed.

"As with many people with a wooden leg, I didn't think I was disabled. I didn't think I was disabled until I had to use the chair."

What people don't realize, Kennedy said, is that a wheelchair "looks terrible, but it's not such a big deal."

"People hold the door for you, and they mean well, but they stand right in the middle of the doorway," Kennedy said. "They're looking at the chair and not the person in it. We have a lot of education to do."

Brodsky agrees that though this is supposed to be a more "enlightened time" (he makes quote marks in the air), young lawyers with physical disabilities must understand that no matter what the law is, people may discriminate. "It's just human nature. Sometimes it is really, really difficult to overcome."

But Brodsky said the difficulty he has faced coping with cerebral palsy may have given him his fighting spirit. Brodsky said he knew he had to be better than average to be considered just as good.

"I knew I wouldn't be getting anywhere by being average," he said. \*