



ILLINOIS STATE BAR ASSOCIATION

THE PUBLIC SERVANT

The newsletter of the Illinois State Bar Association's Standing Committee on Government Lawyers

Final regulations on the Americans with Disabilities Act relating to state and local government services recently were issued by the Department of Justice

By Eileen M. Geary

On September 15, 2010, the Department of Justice (DOJ) issued regulations relating to Nondiscrimination on the Basis of Disability in State and Local Government Services under Title II of the Americans with Disabilities Act. The new rules become effective on March 15, 2011. The rules are published in 28 C.F.R., Parts 35 and 36. This article reviews briefly some of the provisions in Part 35 of 28 C.F.R. The rules may be found in full at the ADA Home Page at <www.ada.gov>.

Title II of the Americans with Disabilities Act governs newly designed or altered State and local government facilities so that those facilities are "readily accessible to and usable by individuals with disabilities. 42 U.S.C. 12101 *et seq.*" 28 C.F.R. Part 35, Supplementary Information. The statute prohibits discrimination on the basis of disability by all activities of State and local governments regardless of whether they receive federal financial assistance. Originally issued in

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In-sites

The following Web sites include information that relates to disability non-discrimination and other non-discrimination laws:

The Web site of the U.S. Equal Employment Opportunity Commission, <www.eeoc.gov>, contains information related to the Americans with Disabilities Act Amendments Act of 2008. The site also includes information related to Title II of the Genetic Information Nondiscrimination Act of 2008.

Hosted by the Illinois Department of Human Rights, <www.state.il.us/dhr>, provides information regarding filing a charge of discrimination under the Illinois Human Rights Act.

<www.dol.gov> is the Web site of the United States Department of Labor. The site contains links to a number of resources regarding employment opportunities and laws for people with dis-

abilities. <www.state.il.us/agency/idol> contains similar information provided by the Illinois Department of Labor.

The Web site of the Illinois Human Rights Commission, <www2.illinois.gov/ihr/Pages/default.aspx>, provides information related to fighting discrimination in Illinois and contains links to Illinois Human Rights Commission decisions and Illinois Appellate Court decisions.

The City of Chicago's Commission on Human Relations maintains a Web site to promote diversity. The Commission enforces the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance and investigates complaints of discrimination. More information regarding the Commission may be found on its Web site: <www.cityofchicago.org/city/en/depts/cchr.html/>. ■

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1991, the rules implementing Title II provided ADA Standards for Accessible Design. The new rules update those guidelines. Although the rules go into effect six months after they are published, nevertheless, the rules do not require compliance with the 2010 Standards until eighteen months from the publication date of September 15, 2010. 28 C.F.R. sec. 35.151. Certain rules relating to transportation issues are separately covered in the federal Department of Transportation regulations in 49 C.F.R., Parts 37 and 39.

In the introductory provisions of the new rules, DOJ has stated that the new rules "should improve the overall sense of well-being of persons with disabilities, who will

know that public entities and places of public accommodation [covered in Part 36] are generally accessible, and who will have improved individual experiences." The regulations note that the intended results include that the new rules will have social benefits from increased interaction, especially for children, for instance, in school facilities. Additionally, the rules will have "non-use benefits," related to home-based and other social services. For example, if persons are able to access centralized sources of services, fewer resources might be required for home-based care. Third, the rules will provide "option value," resulting in value to persons with and without disabilities, who will benefit

from the option of using accessible facilities at some time in the future. Further, the new rules will give "existence value," which is the benefit for individuals generally to live in a country which gives protections to people with disabilities.

Among the types of services that the new rules require are auxiliary aids and services, including qualified interpreters, assistive listening systems, and audio recordings. 28 C.F.R. secs. 35.104, 35.160-61. The government facilities must allow for the use of service animals, wheel chairs, and accessible seating, including wheel chair spaces and companion seats. Sec. 35.136-38. ■

News you can use


The Illinois Attorney General's Toy, Crib, and Product Recall Guide

Attorney General Lisa Madigan has released her newest recalled products guide as part of her ongoing effort to protect children by educating families on the dangers of having recalled toys, cribs, and other potentially dangerous items in their homes.

The Attorney General's "Play It Safe Guide: Subscribe for Safety" is available in print and online and details the products recalled this year. For recalled products, the guide provides the product name and manufacturer and describes the unsafe features. It highlights recalled toys, such as dart guns, inflatable toys and tricycles, along with recalled essentials like cribs, high chairs and strollers.

The Play It Safe Guide may be viewed and downloaded at Attorney General Madigan's Web site, <www.illinoisattorneygeneral.gov/>, by following the "Latest News" link or by requesting a free, printed copy in the mail by calling the Attorney General's Recall Hotline at 1-888-414-7678.

Interested persons may also sign up for automatic recall notifications via e-mail through the Children's Product Safety Commission at <www.cpsc.gov>. ■




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Someone you should know: Sam Brooks, Deputy Managing Counsel with the USPS

By Patrick T. Driscoll, Jr. and Caitlyn Jones¹

As someone who has devoted his career to government work and public service, Sam Brooks is someone you should know.

Sam Brooks serves as a Deputy Managing Counsel with the United States Postal Service (USPS). Prior to assuming his current position, Brooks was an Assistant United States Attorney (AUSA) with the U.S. Attorney's Office for more than 15 years, representing the United States and its agencies in affirmative and defensive civil litigation. Before becoming an AUSA, Brooks was in the Honors Program of the Department of Justice (DOJ Honors Program) with the Tax Division for almost four years. However, his service minded attitude and strong work ethic were developed long before earning his J.D., *cum laude*, from Valparaiso University School of Law.

As a University of Illinois at Chicago undergraduate, Brooks pursued a degree in accounting with a minor in English in order to develop his writing skills. While Brooks studied at Valparaiso University School of Law, he had the opportunity for in-depth interactions with the faculty due to the small and close-knit community he found at Valparaiso. Brooks, impressed by the faculty's desire to serve a client within the context of helping the greater community, learned about the value of involvement in local and national issues. These principles helped guide him to a career path in government.

Brooks exercised his writing skills at Valparaiso by writing for both law review and the moot court team. Brooks' law review article, "Native American Indians' Fruitless Search for First Amendment Protection of Their Sacred Religious Sites," proposed a new approach for courts to determine whether Native American use of public land for religious purposes can restrict government development of that land. Due to his success on law review, he was elected to a Note Editor position. Shortly thereafter, Brooks was asked to research and write the brief for the Valparaiso Moot Court team, which went on to place second at Midwest Regionals and finish in the Top 16 at Nationals in New York. Brooks also held a summer associate position with Clancy & Krippner, a personal injury firm in St. Charles, Illinois (now Clancy Law),

while in law school.

After graduating from Valparaiso, Brooks served as a law clerk for the Honorable Kenneth R. Harkins in the United States Court of Federal Claims in Washington, D.C. He then accepted a trial attorney position with the tax division of the United States Department of Justice in Washington, D.C., Civil Trial Section. As a tax division attorney with the prestigious DOJ Honors Program, Brooks developed the skills necessary to litigate in the Federal District and Bankruptcy Courts. He handled all aspects of litigation ranging from initial pleadings through trial to post-judgment collections. He routinely practiced in both Federal District and Bankruptcy Courts in Maryland, Virginia, West Virginia, Illinois, Ohio, and Indiana. In 1995, Brooks returned to Chicago as an Assistant United States Attorney for the U.S. Attorney's Office for the Northern District of Illinois, Eastern Division. During his 15 years as an AUSA, Brooks represented the United States in Civil Litigation including Employment Discrimination, Torts, *Bivens*, Environment, Fraud, and Government Regulation. Additionally, he argued before the U.S. Court of Appeals for the Seventh Circuit. It was at the U.S. Attorney's Office that Brooks learned that even though the cases themselves might not be as provocative as many criminal matters, each case was extremely important to the represented agency and/or the government employees/private citizens involved in the litigation. Therefore, he was always mindful of one goal: "To do my best to ensure that all those involved in the litigation process, whether friend or opponent, felt that the justice system treated them with dignity and respect... I considered it a major personal victory that this occurred in nearly every case I handled."

Brooks has consistently played an important leadership role within the legal community. He worked with Northwestern University School of Law's Summer Undergraduate Mock Trial Institute in 1999-2000. Additionally, he served as a faculty member for the Deposition Program of the National Institute of Trial Advocacy in 1999, 2000, 2003-2005, and 2007. Since 2005, he has been an active member of the National Advocacy Center of the U.S. Department of Justice. Brooks

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Published at least four times per year.

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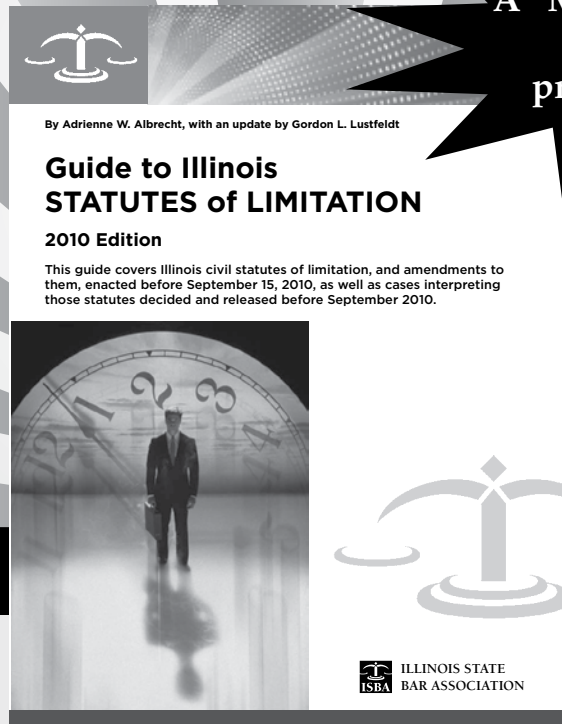
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appeared on the Justice Television Network as lead presenter on "Core Competencies in Federal Civil Law: Title VII Litigation" and "A Systematic Approach to Employment Discrimination Defense." He also served as lead faculty in a Motion Practice and Writing Seminar entitled "Title VII Model Case." In 2008, Brooks shared his knowledge as a panel member with the Federal Executive Board on "Dealing with Disability in the Workplace: Practical Tips & Potential Pitfalls."

As a civil litigator with more than 20 years of experience, Brooks has handled a multitude of cases representing federal agencies of the United States. However, he has a practical approach to litigation, ever since receiving the following advice from a lawyer who taught him as a UIC undergraduate: "If you want justice, go to the seminary. If you want law, go to law school." Brooks admits that this advice may sound cynical, but he also believes it has been extremely useful during his tenure in civil litigation. Moreover, while Brooks believes the American justice system to be the best in the world, he understands its flaws. This particular advice has helped him explain the realities of litigation to those clients in civil lawsuits who have felt that the "law" did not produce "justice" in their cir-

cumstances. In these cases, Brooks finds this advice helps the client understand that competing interests, evolutions in the law, and factors such as the forum, judge, and litigation costs all affect how a particular case may be resolved.

In his current position as part of the leadership team at the USPS Law Department in Chicago, Brooks enjoys the opportunity to work with an enthusiastic and professional team of attorneys and staff. He deeply appreciates the USPS as an organization largely because of the "employees who give their best efforts in providing excellent service to the public." The hardworking USPS reminds Brooks of his own self-described "blue collar" background, having grown up working in his father's print shop beginning in grade school and continuing through his college years.

When asked about his best advice for a young lawyer interested in a career in government services, Brooks says, "Don't limit yourself. One of the great advantages of a government career is that opportunities for development, growth, and expansion abound." Brooks admits that he himself never could have imagined his progression from a law clerk to an AUSA and now managing litigation and legal staff with the USPS. He feels

very privileged to have had such wonderful opportunities and professional experiences.

A divorced father of three, Brooks enjoys spending time with his two teenage daughters, participating in Boy Scouts of America activities with his son, and volunteering weekly with his church's youth program and singing group. He also enjoys riding his motorcycle or just spending time with family, friends and neighbors alike. With his continued service to his community as well as multiple federal agencies of the United States, Sam Brooks is an example of ethics, leadership and government service on a daily basis and Someone You Should Know. ■

1. Patrick T. Driscoll, Jr. is Deputy State's Attorney and Chief of the Civil Actions Bureau in the Cook County State's Attorney's Office. He is a member of the ISBA Standing Committee on Government Lawyers. The opinions expressed herein are solely those of the author and not those of the Cook County State's Attorney's Office.

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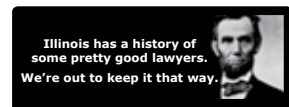
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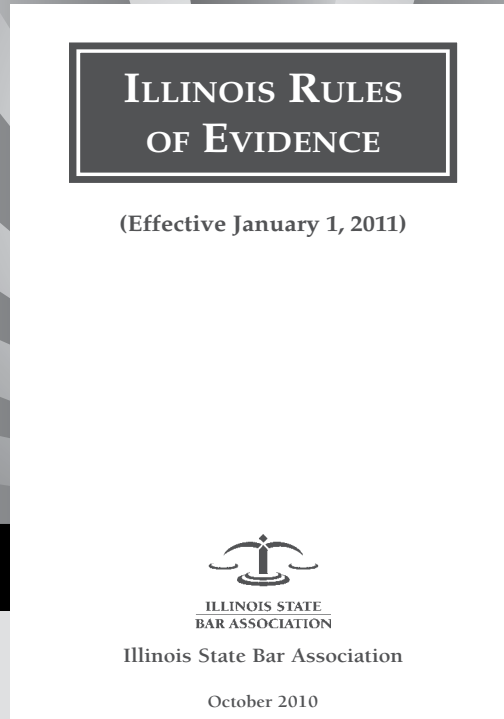


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Tuesday, 1/4/11- Teleseminar—Patent and IP Law for the Business Lawyer. 12-1.

Thursday, 1/6/11- Teleseminar—Business Planning for the New Health Care Law: What You Need to Know About the Year Ahead. 12-1.

Friday, 1/7/11- Chicago, ISBA Regional Office—2011 Family Law CLE Fest. Presented by the ISBA Family Law Section. TBD.

Tuesday, 1/11/11- Teleseminar—Restoration of the Estate & Gift Tax in 2011: Planning & Drafting Issues, Part 1. 12-1.

Wednesday, 1/12/11- Teleseminar—Restoration of the Estate & Gift Tax in 2011: Planning & Drafting Issues, Part 2. 12-1.

Friday, 1/14/11- Chicago, ISBA Regional Office—New Laws for 2010 and 2011. Presented by the ISBA Standing Committee on Legislation. 12-2.

Tuesday, 1/18/11- Teleseminar—Asset-Based Finance: Business Borrowing Against assets in a Tight Credit Environment, Part 1. 12-1.

Wednesday, 1/19/11- Teleseminar—Asset-Based Finance: Business Borrowing Against assets in a Tight Credit Environment, Part 2. 12-1.

Friday, 1/21/11- Teleseminar—Ethics in Representing Elderly Clients. 12-1.

Friday, 1/21/11- Chicago, ISBA Regional Office—The Health Care Reform Act- An Overview for the Health Care Attorney. Presented by the ISBA Health Care Section. 9-12.

Friday, 1/21/11- Collinsville, Gateway Center- Mississippian Room—Tips of the Trade: A Federal Civil Practice Seminar- 2011. Presented by the ISBA Federal Civil Practice Section. 8:30-11:45.

Tuesday, 1/25/11- Teleseminar—Alternatives for Financially Distressed Mid-Size Businesses, Part 1. 12-1.

Wednesday, 1/26/11- Teleseminar—Alternatives for Financially Distressed Mid-Size Businesses, Part 2. 12-1.

Friday, 1/28/11- Teleseminar—Attorney Ethics in Social Media- Blogs, Facebook, Twitter, YouTube and More. 12-1.

Tuesday, 1/31/11- Teleseminar—Dangers of Using "Units" in LLC Planning REPLAY. 12-1.

February

Tuesday, 2/1/11- Teleseminar—2011 Ethics Update, Part 1. 12-1.

Wednesday, 2/2/11- Teleseminar—2011 Ethics Update, Part 2. 12-1.

Friday, 2/4/11- Bloomington, Bloomington-Normal Marriott—Hot Topics in Agriculture- 2011. Presented by the ISBA Agriculture Law Section; co-sponsored by the ISBA Mineral Law Section. TBD.

Tuesday, 2/8/11- Teleseminar—Sophisticated Choice of Entity Analysis, Part 1. 12-1.

Wednesday, 2/9/11- Teleseminar—Sophisticated Choice of Entity Analysis, Part 2. 12-1.

Friday, 2/11/11- Chicago, ISBA Regional Office—ADR- Arbitration and Mediation Issues- 2011. Presented by the Civil Practice and Procedure Section. 9-4:15.

Tuesday, 2/15/11- Teleseminar—The New Normal of Buying and Selling Commercial Real Estate, Part 1. 12-1.

Wednesday, 2/16/11- Teleseminar—The New Normal of Buying and Selling Commercial Real Estate, Part 1. 12-1.

Monday, 2/21/11- Chicago, ISBA Regional Office—Advanced Worker's Compensation- 2011. Presented by the ISBA Worker's Compensation Section. TBD.

Monday, 2/21/11- Fairview Heights, Four Points Sheraton—Advanced Worker's Compensation- 2011. Presented by the ISBA Worker's Compensation Section. TBD.

Tuesday, 2/22/11- Teleseminar—Asset Protection for the Middle Class, Part 1. 12-1.

Wednesday, 2/23/11- Teleseminar—As-

set Protection for the Middle Class, Part 2. 12-1.

Thursday, 2/24/11- Peoria, Hotel Pere Marquette—Family Law-Nuts & Bolts for Downstate 2011. Presented by the ISBA Family Law Section. TBD.

Friday, 2/25/11- Chicago, ISBA Regional Office—Developments in Wage and Hour Law and Employment of Foreign Workers. Presented by the Labor and Employment Section. 8:55-1:30.

Friday, 2/25/11- Teleseminar—Ethics in Negotiations. 12-1.

Monday, 2/28/11- Teleseminar—Family Feuds in Trusts REPLAY. 12-1.

March

Friday, 3/4/11 - Chicago, ISBA Regional Office—Dynamic Presentation Skills For Lawyers. Master Series Presented by the Illinois State Bar Association. 12:30-5.

Saturday, 3/5/11- Downer's Grove, Double Tree—DUI, Traffic and Secretary of State Related Issues. Presented by the Traffic Laws/Courts Section. 8:55-4:00.

Monday, 3/7/11-Friday, 3/11/11- Chicago, ISBA Regional Office—40 Hour Mediation/ Arbitration Training. Master Series Presented by the Illinois State Bar Association and the ISBA Alternative Dispute Resolution Section. 8:30-5:45 each day.

Wednesday, 3/30/11- Chicago, ISBA Regional Office—Why International Treaties Matter to Illinois Lawyers. Presented by the International and Immigration Committee. 12-2.

April

Friday, 4/1/11- Chicago, ISBA Regional Office—Military family Law Issues. Presented by the ISBA Family Law Section and the ISBA Military Affairs Section. TBD.

Friday, 4/8/11- Bloomington, Holiday Inn and Suites—DUI, Traffic and Secretary of State Related Issues. Presented by the Traffic Laws/Courts Section. 8:55-4:00. ■

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