LESSONS LEARNED ABOUT ADA COMPLIANCE

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CHIEF ADMINISTRATIVE OFFICER

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CHIEF INFORMATION OFFICER

GAIL BRADFORD, ESQ.
DEAN, RINGERS, MORGAN, & LAWTON, P.A.
Overview

• Overview of Orange County’s situation
• What are the ADA laws
• Legal insights: ADA complaints
• ADA compliance: processes, training, communication
• ADA compliance: technological aspects
• Q & A
Complaint Against Orange County Clerk

- Visually impaired customer unable to receive documents from us in a format that his software could read in 2011
- We were unaware of the customer’s lack of satisfaction at the time
- Complaint lodged with DOJ in 2013
- Complaint referred to our e-filing system which was retired in 2012 when e-portal was launched
Americans With Disabilities Act

- Prohibits discrimination based on disability
- Requires employers to provide *reasonable accommodations* and imposes accessibility requirements on public accommodations
- Electronic Accessibility
  - Website
  - Digital documents
The ADA is the most sweeping disability rights legislation in history.

Title II mandates that state and government programs be accessible for people with disabilities.

This requirement is called program access.
Disability Types

- Visual
  - Blindness
  - Low vision
- Auditory/Hearing
  - Deaf
  - Hard of Hearing
- Mobility
- Speech
- Cognitive
- Disabilities that come with age
How many people with disabilities currently live in the United States?

56.7 Million (18.7% of the US Population)

Nondiscrimination Requirements

• The basic mandate of Title II of the ADA is that a qualified individual with a disability shall:
  - be included,
  - have access to benefits, services or goods,
  - be able to participate in programs or activities,
  - not be subject to discrimination.

• The opportunity to participate must be equal to and as effective as the opportunity provided to others.

• People with disabilities must not be denied an equal opportunity to participate and benefit from programs and services.
Equal Opportunity Law

“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

42 U.S.C. § 12132
Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

28 C.F.R. § 35.104
Public entity means—
• Any State or local government;
• Any department, agency, special purpose district, or other instrumentality of a State or States or local government.

28 C.F.R. § 35.104

Reasonable accommodations
• Assure “meaningful access”
• Not fundamental or substantial change
Complaint Process

• By individual or authorized representative of individual
• Within 180 days from date of alleged discrimination
• With almost any federal agency or the DOJ
Investigation

- Compliance review
- Informal resolution
- Letter of Findings
- Individual may file private suit regardless of whether the investigation
During the Investigation

- Educational process
- Be responsive
- Be reasonably cooperative
- Be vigilant
- Be knowledgeable about the system at issue
- Involve staff who have knowledge about the system
- Involve third-parties and vendors
Settlement Agreement

- Contract
- In writing and signed by the parties
  - Not the individual who made the complaint
- Address each cited violation
- Specify corrective or remedial action and a deadline to accomplish action
- Penalty for non-compliance
During Settlement Agreement Negotiation Process

- Be reasonably cooperative
- Be vigilant
- Be knowledgeable about the system at issue
- Involve staff who have knowledge about the system
After the Settlement Agreement is Signed...

- Publicity
- Stay compliant with terms of the Settlement Agreement
- There will be additional inquiries from the DOJ
After the Settlement Agreement

- Be responsive
- Be reasonably cooperative
- Be vigilant
- Be knowledgeable about the system at issue
- Keep staff who have knowledge about the system involved and continually educate staff
Operations

• ADA Processes
  – Customer Request Process
    • Request Form
    • Request Log
  – Customer Complaint Process
    • Complaint Log

• Training – Title II Training

• Role – ADA Coordinator
### ADA Request Form

**TITLE II ADA REQUEST FORM**

Please forward this completed form to Carmen Velazquez, ADA Coordinator at Carmen.Velazquez@myorangeclerk.com, Melissa Christ at melissa.christ@myorangeclerk.com and Donna Boone at donna.boone@myorangeclerk.com.

<table>
<thead>
<tr>
<th>Customer Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name:</strong></td>
</tr>
<tr>
<td><strong>Address:</strong></td>
</tr>
<tr>
<td><strong>City:</strong></td>
</tr>
<tr>
<td><strong>State:</strong></td>
</tr>
<tr>
<td><strong>Zip:</strong></td>
</tr>
<tr>
<td><strong>Phone:</strong></td>
</tr>
<tr>
<td><strong>Email:</strong></td>
</tr>
<tr>
<td><strong>Relationship to person needing accommodation:</strong></td>
</tr>
<tr>
<td><strong>Case party type:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Case Information</th>
</tr>
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<tbody>
<tr>
<td><strong>Case Number:</strong></td>
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<tr>
<td><strong>Case Style:</strong></td>
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<table>
<thead>
<tr>
<th>Filing Information</th>
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<tbody>
<tr>
<td><strong>New request:</strong></td>
</tr>
<tr>
<td><strong>Customer uses screen reader:</strong></td>
</tr>
<tr>
<td><strong>Filing start date:</strong></td>
</tr>
<tr>
<td><strong>Complaint/Notice</strong></td>
</tr>
<tr>
<td><strong>Settlement Agreement</strong></td>
</tr>
<tr>
<td><strong>Other</strong></td>
</tr>
<tr>
<td><strong>Number of documents:</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Special Instructions:</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Format</th>
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<tbody>
<tr>
<td><strong>Large Print</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Delivery</th>
</tr>
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<tbody>
<tr>
<td><strong>Email</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Clerk Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name of clerk completing form:</strong></td>
</tr>
<tr>
<td><strong>Date:</strong></td>
</tr>
</tbody>
</table>
Receive & Process ADA Complaint

PROCESS: Receive and Respond to ADA Customer Complaint

Customer
- Submit Complaint
  - How was complaint completed?
  - In Person/Phone

Deputy Clerk
- Complete complaint form for customer
- Forward completed complaint form to ADA Coordinator and backups
- Online/Mail

ADA Coordinator
- Forward copy of complaint to ADA operations team & legal counsel
- Meet with complainant to resolve complaint
- Review findings of ADA operations team
- Interview witnesses who can provide relevant information
- Meet with legal counsel to review investigative findings and feedback for legal sufficiency
- Respond to complainant

ADA Operations Team
- Grant complaint in CMS
- Investigate complaint allegations & provide findings to ADA Coordinator and backups
- Was complaint legally sufficient?
  - Yes
    - ADA Coordinator & operations team meet to review process & implement changes
  - No
    - Submit quarterly report for IIBEOI

Chief Administrative Officer
- Review quarterly report
- Prepare cover letter for submission to legal counsel
- Submit cover letter and report to legal counsel

9/9/14 by Jeannette Elydons

myorangeclerk.com
# ADA Complaint Form

### Title II ADA Complaint Form

Please forward this completed form to Carmen Velazquez, ADA Coordinator at Carmen.Velazquez@myorangeclerk.com, Melissa Geller at Melissa.Geller@myorangeclerk.com, and Donna Borne at Donna.Borne@myorangeclerk.com.

**Customer Information**

<table>
<thead>
<tr>
<th>Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
</tr>
<tr>
<td>City:</td>
</tr>
<tr>
<td>State:</td>
</tr>
<tr>
<td>Zip:</td>
</tr>
<tr>
<td>Phone:</td>
</tr>
<tr>
<td>Email:</td>
</tr>
</tbody>
</table>

**Relationship to person needing accommodation:**

- [ ] party
- [ ] witness
- [ ] victim
- [ ] attorney
- [ ] other

**Case Information**

<table>
<thead>
<tr>
<th>Case number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case style:</td>
</tr>
</tbody>
</table>

**Describe what happened:**

<table>
<thead>
<tr>
<th>Witness Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
</tr>
<tr>
<td>Address:</td>
</tr>
<tr>
<td>City &amp; state:</td>
</tr>
<tr>
<td>Zip:</td>
</tr>
<tr>
<td>Phone:</td>
</tr>
<tr>
<td>Email:</td>
</tr>
</tbody>
</table>

[myorangeclerk.com](http://myorangeclerk.com)
ADA Coordinator Role

- Single Point of Contact
- Log all requests and what documents were sent
- Establish key partnerships
  - Court Admin – ADA Coordinator for Hearing Impaired
  - Central Florida Disability Chamber
  - Lighthouse for the Blind
Technical

- Standards & Guidelines
- Assistive Technologies
- Adobe Acrobat
- Website Considerations
- Lessons Learned
WCAG & Section 508

- **Web Content Accessibility Guidelines – WCAG**
  - Global standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally. Main focus is usability.

- **Section 508**
  - Addresses access for people with physical, sensory, or cognitive disabilities. Main focus is functionality.

- **Recommendation vs Law**
  - The most notable difference between WCAG and Section 508 is that WCAG is a set of "recommendations" for websites, while Section 508 is a law that applies to all Federal Agencies.
WCAG 2.0 Conformance Requirements
(www.w3.org)

• Conformance Levels:
  - **Level A**: Basic accessibility and usability.
    • Example – Video must have Closed Captioning
  - **Level AA**: Increased requirements based on Level A compliance
    • Example – Video must have Closed Captioning and an accessible script must be available
  - **Level AAA**: Advanced requirements which also satisfy compliance Levels A and AA.
    • Example – Video must have Closed Captioning, ensure accessible script is available, and sign language option must be available.

• Note 1: Web Content Accessibility Guidelines (WCAG) 2.0, 2008. http://www.w3.org/TR/WCAG20/
• Note 2: Understanding Conformance. http://www.w3.org/TR/UNDERSTANDING-WCAG20/conformance.html
Assistive Technology

Assistive technologies are devices, software, or techniques used to assist individuals with disabilities in the use (or access) of something.

Examples:

- Screen readers & magnifiers
- Voice recognition software
- Onscreen or other special keyboards
- TTY/TDD, CART, and video relay
- Refreshable Braille displays
Assistive Technology (cont.)

- JAWS (screen reader)
  - Software provides text-to-speech and Braille output
  - Used by people who are blind or have low vision
- ZoomText (screen magnification/enhancement)
  - Used by people with low vision
- Dragon Naturally Speaking (voice recognition)
  - Software used by people with motor disabilities
- Head pointer
  - Devices used to control mouse pointer or keyboard
- Communication Access Real-time Translation (CART)
  - Live captioning aided by a computer, software, or stenotype
Adobe Acrobat Functionality

Run the Make Accessible Wizard from Tool > Action Wizard
Marriage License Form

**SECTION A**

**STATED**

**STATE**

- Applicant Name
- Applicant Address
- Age
- Marital Status
- Whether a pet is present
- Whether a child is present
- Whether a dependent is present
- Whether a relative is present
- Whether a friend is present

**SECTION B**

**APPLICANT INFORMATION**

<table>
<thead>
<tr>
<th>FIRST NAME</th>
<th>DATE OF BIRTH</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>PLACE OF BIRTH</th>
<th>RACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIDDLE NAME</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LAST NAME</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SECTION C**

**APPLICANT INFORMATION**

<table>
<thead>
<tr>
<th>FIRST NAME</th>
<th>DATE OF BIRTH</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>PLACE OF BIRTH</th>
<th>RACE</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LAST NAME</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SECTION D**

**APPLICANT INFORMATION**

<table>
<thead>
<tr>
<th>FIRST NAME</th>
<th>DATE OF BIRTH</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>PLACE OF BIRTH</th>
<th>RACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIDDLE NAME</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LAST NAME</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Do the parties applying for this marriage license have any children together? Yes/No
If yes, were they born in the State of Florida? Yes/No

Please note: No Refunds or Personal Checks Accepted

myorangel clerk.com
Marriage License
Form Reading
Order
i.e. Building interview
within the form
PDF Documents

- Much easier to be made ADA compliant than a Word Document
- PDF documents should be made directly accessible whenever possible
- No completely automatic solution to creating accessible documents. 40% solution
- PDF documents typically require proper export/import
  - Export tags
  - Adobe InDesign, Microsoft Word, Microsoft PowerPoint
  - Add/fix tags
  - Adobe Professional
Digital Documents

• Contracted assistance

• Projected Remediation
  - 4-8 hours per document
  - Adobe Acrobat XI Pro

• Actual Results
  - 40 Documents
    - Begin: 10 hours per document
    - Concluded: 2 – 4 hours per document

• 151 Hours total
Website

- Rebuild vs Fix (Assessment 150 pages 4500 errors)
- Tested with free tools
  - Code checker (Functionality Accessibility Evaluator – FAE)
  - Screen reader (JAWS/NVDA)
  - Color checker (WCAG Contrast Checker)
- Technical Training
  - WCAG 2.0 AA training (Internal & External Vendors)
Quick Fix Tips - Website

• ALT tags
• NULL value
• Use proper headings
• Set the language
• Skip to content
• Address low color contrast areas
Color - Contrast

Non-Compliant Example

This page provides resources to supplement the training materials in this course.

Compliant Example

This page provides resources to supplement the training materials in this course.
Color - Forms

Non-compliant Example

Tell us who you are. (required fields in red)

- **Company:**
- **Salutation:** (please select)
- **First name:**
- **Last name:**
- **Job title:** (please select)
- **Phone:** e.g., 415-555-1111
- **Web address:** http://
- **E-mail:**

Compliant Example

Tell us who you are. (* on required fields)

- **Company:**
- **Salutation:** (please select)
- **First name:**
- **Last name:**
- **Job title:** (please select)
- **Phone:** e.g., 415-555-1111
- **Web address:** http://
- **E-mail:**
Color - Charts

Non-compliant Example

Compliant Example

<table>
<thead>
<tr>
<th></th>
<th>East</th>
<th>West</th>
<th>South</th>
<th>North</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1</td>
<td>5</td>
<td>4.3</td>
<td>3.5</td>
<td>4.5</td>
</tr>
<tr>
<td>Q2</td>
<td>6</td>
<td>2.4</td>
<td>1.8</td>
<td>2.8</td>
</tr>
<tr>
<td>Q3</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>5</td>
</tr>
</tbody>
</table>

East West South North
Non-Text Elements

- **Non-compliant HTML Example – graphic**
  
  ```html
  <img src="4stars.jpg" alt="stars" />
  ★★★★★
  ```

- **Compliant HTML Example – must spell out**
  
  ```html
  <img src="4stars.jpg" alt="4 out of 5 stars" />
  ```
ADA Website Summary

• Fully understand ADA Compliance and how it relates to Web Accessibility
• Invest the time to review your entire website and identify ADA shortcomings
• Develop a plan
• Don’t go overboard
• Test – Change and updates need to be approved
• Stay informed
Summary: How do I protect my organization?

- ADA compliance coordinator within my organization?
  - Who?
  - What are they doing?
- Are there policies or practices in place to address even informal concerns?
- Are there smoldering fires?
- Vendors
  - Make Requirement for RFPs
  - Incorporate protections into vendor contracts
Q&A

What questions do you have?