

WACDA’s NEWEST ATTORNEYS:
By WACDA Staff

ALEXANDRA McCONAUGHEY

Alexandra “Maris” McConaughey is the newest addition to WACDA’s legal team. A recent graduate from Syracuse University College of Law, Alexandra is an attorney focused on disability rights litigation. While in New York, she worked for Syracuse University’s Disability Law clinical program and the Burton Blatt Institute, an organization that focuses on the inclusion



of people with disabilities in the economic, civic, and social spheres. While in law school, her casework experience included employment discrimination cases, special education negotiation, and Social Security Disability Insurance appeals.

WACDA is thrilled to welcome back our very first legal intern now as a full-fledged attorney. We cannot wait to see the amazing work Maris will do in the fight for disability rights!

Highlights of this Issue:

WACDA’s Newest Attorneys:	1
Alexandra McConaughey	1
Christina Dunbar	2
Jill Sulzberg	2
WACDA in the News: How Equity is Lost When Companies Hire Only Workers with Disabilities	2
WACDA’s UW Parking Case	4
Discriminatory COVID-19 Healthcare Rationing Targets People with Disabilities	5
DVR Champions On	6
WACDA in the News: Opening Restaurants Might Cause Access Barriers for People with Disabilities	7
INVEST in America Act 2020	8
About WACDA	9



CHRISTINA DUNBAR

Christina Dunbar joined the WACDA team this August. Christina attended the University of Washington for her undergraduate education, graduating with honors in Political Science and Human Rights. She then attended Loyola Law School in Los Angeles, California, where she served as the Chief Technical Editor of the Law Review. Following her graduation, Christina worked for a major corporation practicing accessibility regulatory compliance. At this corporation, she assisted with the enforcement of the Americans with Disabilities Act and related statutory and regulatory law. Christina has also served as a legal accessibility representative at national industry events, held leadership positions in multiple internal disability affinity groups, and is currently a member of the Washington Attorneys with Disabilities Association. When Christina is not fighting for the rights of people with disabilities, she enjoys volunteering at animal sanctuaries and taking care of her own pets.



JILL SULZBERG

Jill Sulzberg joined WACDA's legal team in May following a period of volunteering for WACDA. Jill is licensed to practice law in Washington, Texas, and Illinois (inactive). Jill has a long history of fighting for the rights of people with disabilities. Jill has extensive experience working in employment law. After graduating college, she was an advocate for a large disability rights organization in New York City, where she often focused on employment issues under the Americans with Disabilities Act. Jill then went on to become an attorney, practicing labor and employment law in Chicago, Illinois and El Paso, Texas. Jill also has experience as a mediator and conciliator. Outside the office, Jill enjoys running in the woods with her dog, sea kayaking, and reading fiction.

We are glad that Jill, Maris, and Christina are all part of our team this summer. We cannot wait to see all that they do to advance the rights of people with disabilities!

WACDA IN THE NEWS: HOW EQUITY IS LOST WHEN COMPANIES HIRE ONLY WORKERS WITH DISABILITIES

Original Article by Wendy Lu, commentary by WACDA Staff

The push for a diversified workforce has become one of the most prevalent demands of civil rights organizations nationally. This has encouraged employers to do a better job of hiring employees with disabilities. However unfortunately not every employer has seemed to have gotten the memo on how diversity and equity are appropriately woven into a business.

Many employers search for praise by intentionally focusing on hiring workers with disabilities, and even creating programs exclusively focused on the value of disability in the workplace. While there is no doubt that the problem-solving skills, resilience, and unique perspectives held by people with disabilities all have the potential to benefit businesses, hiring someone just because they have a disability is not inclusive or accessible. In fact, in most situations, targeted hiring practices like these are more harmful than they are helpful to the disability community's mission toward equity and inclusion.

Recently, The New York Times interviewed one of WACDA's attorneys, Alexandra McConaughy, for an article that touches on this topic of selective hiring. This article was part of a series done by the publication that explores "how the Americans with Disabilities Act has shaped modern life for people with disabilities." This article explains why employers should not hire people with disabilities and place them in positions based on stereotypes and myths about the correlation between disability and savantism. In a well-intentioned effort to diversify the workforce and include people with disabilities, these business strategies end up further secluding and exploiting people with disabilities.

In the article, Alexandra says, "I'm someone who's experienced a lot of hiring



Singling out workers with disabilities creates division, not equity in the workplace.

discrimination, so I see the appeal of knowing that the people on the other side are actually genuinely looking for disabled talent... Honestly, if I hadn't gotten this job, I'd be looking for those types of initiatives right now, because getting a job as a person with a disability is so hard." Alexandra is not alone in her struggles to find employment as a person with a disability. According to the Bureau of Labor Statistics, only about 19.3% of people with disabilities were employed in 2019, compared to 60.8% of the general population. The prevalence of unemployment in the disability community creates a difficult situation for people with disabilities that are in search of jobs. While positions made only for people with disabilities may not be an ideal option, for many this may be the only option.

But the jobs and programs specifically carved out for people with disabilities tend to pay low wages and separate workers with disabilities from workers without disabilities. These aspects of disability-specific hiring take away any opportunity for workers with disabilities to have a positive social work experience with the same opportunities as

their peers without disabilities. While these circumstances are anything but preferable, the consistent corporate gatekeeping that keeps people with disabilities out of the workforce forces workers with disabilities to apply anyway.

The solution to this issue is to make the standard American workplace more accessible and inclusive. Rather than relying on the “special skills” of people with disabilities for “special” programs, companies should focus on hiring people with disabilities for their existing positions. People with disabilities can offer much more to businesses than these programs are asking of them, and they should be given the opportunity to do so. Rather than attempting to diversify the workplace through additional divisions, business owners should try implementing true inclusivity into their hiring and reasonable accommodations practices. That is what true equity looks like.

WACDA’s UW PARKING CASE

By Sierra Paola, WACDA Legal Intern

In the fall of 2016, WACDA filed suit against the University of Washington (UW) in United States District Court in the Western District of Washington. The suit alleged that the UW was denying individuals with mobility disabilities full and equal access to the services and programs provided by the UW by failing to maintain ADA accessible parking facilities. Upon investigation, WACDA determined that nearly all the UW’s parking facilities contained one or more noncompliant elements that made them inaccessible to individuals with disabilities. The accessibility barriers included but were not limited to an inadequate number of accessible parking spaces, accessible parking spaces and access aisles which were too steep or insufficient dimensions, or had an insufficient number of or insufficiently designed curb ramps and ramps. As a result of these ADA violations, the plaintiffs, who were patrons and students of the University, faced numerous and ongoing instances of hardship, isolation, and



It is imperative that people with disabilities are able to access parking lots so they can have equal access to events and activities at an establishment.

segregation based on their disabilities.

Litigation lasted until 2018, when the parties were finally able to reach a settlement issued by a consent decree. The consent decree declared that the UW should take all steps necessary to make at least 35 parking facilities ADA compliant by no later than September 30, 2020. Five years after the effective date of the decree the UW is make at least 43 parking facilities accessible and 15 years from the effective date at least 77 parking facilities must be accessible.

There are a number of other requirements that the UW must abide by in order to comply with the consent decree. For example, the UW hired a full-time ADA Coordinator to oversee campus-wide accessibility issues. Additionally, while the consent decree is in place UW must maintain their grievance procedures and use their best efforts to publicize and distribute information on how individuals may engage in the grievance system. The UW must exercise its best efforts to ensure that parking policies, laws, and regulations related to accessible parking on the Seattle campus are followed fully. It

must also make sure that accessible parking permits are issued only to individuals who are entitled to them.

In order to ensure compliance, the UW and WACDA must report to the Court regarding the UW's progress towards meeting all requirements of the consent decree on 7 different dates over the next 12 years. Every time the UW claims that one of its parking facilities is now fully compliant, it must provide WACDA with a report and documentation demonstrating the compliance including photos, surveys, and measurements.

In sum, the consent decree is a comprehensive tool for ensuring that the University of Washington's parking facilities are no longer constructed in a manner that discriminates against individuals with disabilities. The length and complexity of the consent decree shows just how much time and effort will have to go into remedying the UW's failure to comply with the ADA and other disability rights legislation. WACDA sees this case as a massive success, but still has plenty of work going to forward to ensure full and timely compliance.

DISCRIMINATORY COVID-19 HEALTHCARE RATIONING TARGETS PEOPLE WITH DISABILITIES

By Rachel Pollard, WACDA Legal Intern

The number of COVID-19 patients has rapidly increased over the past several months. As a result, hospitals are facing capacity and resource constraints. From staffing shortages to a lack of ventilators, states are preparing for a time when they no longer have the capacity to care for all their patients, forcing a "crisis of care" issuance. The rationing of healthcare has brought disability discrimination to the forefront of the COVID-19 healthcare discussion, as some of these protocols state that in situations in which there are more coronavirus patients than equipment, people with intellectual or



People with disabilities should have access to the same quality of medical care as their peers without disabilities.

physical disabilities will be deprioritized.

In mid-March Washington state officials discussed the potential of rationing care in the event of a medical equipment and personnel shortage. The rationing guidelines in Washington and in other states allowed doctors to withhold care from people with disabilities, which is in violation of federal law. Washington resident and WACDA founder, Conrad Reynoldson was interviewed by the Atlantic regarding these policies. "When 33-year-old Conrad Reynoldson heard about some of the state protocols, he told me he had 'a moment of sinking dread.' The Seattle attorney has Duchenne muscular dystrophy, and he's worried that if he becomes seriously ill, his diagnosis could prevent him from getting treatment. 'I'm healthy, stable, and I'm contributing to the community,' he told me. 'I don't want someone looking at my diagnoses and rationing care based on inaccurate assumptions.'" Not only do these plans discriminate against people with disabilities by deprioritizing them in the event of health care rationing, they are reinforcing widespread inequalities in America's healthcare system.

On March 20, 2020, a coalition of disability rights groups sent a letter to the US Department of Health and Human Services Office for Civil Rights. The following week, several disability advocacy organizations filed complaints requesting the federal government to clarify its disaster preparedness plans for Washington. The Washington health department stated that it is updating its guidelines to eliminate discriminatory policies.

Concerns about disability discrimination in the delivery of medical treatment are not new. Even though over seven million people in the United States have some form of a cognitive disability, research indicates that people without disabilities often rate the quality of life of a person with a disability lower. Furthermore, studies have documented persistent bias by medical providers against people with disabilities and a failure to fully appreciate the value and quality of life with a disability.

Roger Severino, the director of the Office for Civil Rights stated, “crisis standards of care may start relying on value judgments as to the relative worth of one human being versus another, based on the presence or absence of a disability.” Some patients are not only denied care, but sometimes care is withdrawn after it has been provided. A patient on a ventilator one day may be denied its use the following, because a patient without a disability is in need. The ethical concerns that are triggered by a public health emergency highlight the already existing issues in America’s healthcare system.

While the United States currently does not have any national criteria for allocating ICU beds and ventilators during an emergency, like a pandemic, advocates are suggesting other solutions. Most advocates argue that patients should be given preference based on whether and to what extent treatment would help them. People’s fitness for treatment should be evaluated on a case-by-case basis. Advocates also recommend integrating and highlighting the importance

of an individualized assessment, which must be done based on the best available current medical evidence. It cannot be based on generalized assumptions about a person’s diagnosis or category of disability.

WACDA finds it unacceptable that states authorize such discriminatory actions. Although the majority of the orders have since been rescinded, their approval in the first place demonstrates the presence of disability discrimination in the healthcare system today.

DVR CHAMPIONS ON

By Brian J. Jaeger

Inslee’s Stay-At-Home order brought scores of livelihoods to a halt. About 60,000 Washington State employees including all Division of Vocational Rehabilitation (DVR) staff were ordered to telework from home. The pandemic changed everything. DVR’s leadership team provided a rapid response by quickly addressing tech security and customer confidentiality priorities. All staff were swiftly supplied cell phones and (mostly) laptops allowing for minimal interruption to case management.

When the shutdown placed a crushing economic burden on the state budget, Inslee regrettably announced that state employee furloughs would follow. DVR Director Rob Hines successfully lobbied for DVR staff to be exempt from these furloughs due to the federal funding that supports the workforce. DVR never missed a day in service to their customers.

With staff covered, DVR observed a pending financial disaster for Community Rehab Providers (CRP) who are contracted by DVR to explore and secure employment for their customers. Drastically fewer DVR referrals were being offered the CRP community. DVR initiated a temporary but generous extra bonus payment for CRPs to better endure their financial shortfall. A restrictive DVR staff

training budget was removed prior to the pandemic and all staff are presented with an abundance of virtual training opportunities. This creates additional workplace challenges as staff devote their days to collaborating online via Zoom with customers, community partners, colleagues and long hours/days in training.

DVR's Chief of Field Services Allesandria Goard regularly emails staff with self-care reminders. Encouragement includes taking breaks from the onslaught of online work demands. These reminders build a sense of community when isolation can rule the day.

During these unprecedented times, DVR leadership and staff rapidly pivoted to working from their dining tables at which many remain productively serving people living with a disability to eliminate barriers to employment.



People with disabilities should have been included in the conversation about restaurant sidewalk permits.

WACDA IN THE NEWS: OPENING RESTAURANTS MIGHT CAUSE ACCESS BARRIERS FOR PEOPLE WITH DISABILITIES

Original Article by Nathalie Graham,
Commentary by WACDA Staff

As restaurants feel the pressure to open back up, their methods of re-opening may threaten the safety and transportation ability for wheelchair users. Seattle Mayor Jenny Durkan, along with Councilmembers Dan Strauss and Alex Pedersen, have begun the process of writing legislation that would waive sidewalk permit fees for restaurants. Should this legislation be written and passed through the Washington State House and Senate, restaurants would be permitted to move their seating arrangement into areas that are used by wheelchair users, blind folks, and others with mobility impairments.

WACDA's founder and head attorney, Conrad Reynoldson was recently [interviewed by The Stranger](#) about this issue. In the article, Conrad points out the lack of communication

facilitated between elected officials and disability rights organizations during the process of making the decision to block sidewalks for restaurant use. While Conrad "doesn't see anything inherently wrong with sidewalk cafes, he hasn't gotten any tangible information about the program from the city. All he learned about it was from this [Seattle Times](#) article." The point being, when the city makes plans that will affect already marginalized people, those people should be a part of the conversation.

People with disabilities are already faced with the task of navigating the many structural barriers present in the city of Seattle, and obstructing the sidewalk that wheelchair users, Blind folks, and people with various other disabilities rely on for safe travel further perpetuates accessibility issues. At the very least, the disability community should be given the chance to contribute to the decisions being made that will greatly impact the infrastructure that they have fought for decades to make accessible.

INVEST IN AMERICA ACT 2020

By WACDA Staff

Accessible transportation is one of the most longstanding and challenging disability rights issues. 30 years after the passage of the Americans with Disabilities Act (ADA), people with disabilities still struggle to travel around cities all over the United States due to inaccessible infrastructure and transportation systems. For this reason, WACDA supports the INVEST in America Act, particularly the provisions advocated for by the United Spinal Association and Rep. Jim Langevin (D-RI).

The INVEST in America Act provides hundreds of billions of dollars to improve multiple facets of American transportation, from buses to highways. This year, Representative Jim Langevin teamed up with the United Spinal Association to add additional provisions to the INVEST in America Act that would address many of the transportation issues faced by people with disabilities.

The proposals by Rep. Langevin addresses disability-specific transportation issues. Specifically, the provisions propose establishing a one-stop paratransit pilot program with \$20 million of funding over the next four years. This program would provide essential transportation to people with disabilities. The purpose of this provision is to provide people with disabilities with a method of transportation that avoids the long wait times of public transit.

Additionally, the United Spinal Association and Rep. Jim Langevin propose establishing a list of access measures with the purpose of data collection to highlight inequities for people with disabilities in public transportation systems.

The next provision of the INVEST in America Act proposed by the United Spinal Association implements accountability measures for transportation service providers. This includes the creation of an online portal for reporting access barriers, a long overdue feature of public transportation.



These provisions to the INVEST in America Act will mitigate transportation inequity that Americans with disabilities face everyday.

Finally, the proposed provisions would add over \$2 billion in funding for Section 5310 at the Department of Transportation, a program that funds local transportation agencies that provides services to senior citizens and people with disabilities. An additional \$82 million is proposed to go towards improving non-emergency medical transportation.

If these provisions are added to the bill, then the transportation inequity faced by people with disabilities would be greatly mitigated. These measures provide a method of enforcement for ADA protection of equal access to public entities. These provisions are long-overdue in the ongoing fight for equal access to the cities people with disabilities call home and will hopefully provide people with disabilities with inclusive transportation that goes beyond the bare minimum.

WACDA proudly supports these provisions to the INVEST in America Act. With the support of organizations like WACDA and people like you, bills like these get passed. If you would like to support the improvement of public transportation more inclusive for people with disabilities, [follow this link to contact various US Senators and US Representatives.](#)

ABOUT WACDA

WACDA is guided by the simple but powerful proposition that all lives have equal dignity and worth. As a result, this organization is committed to providing legal services to people with disabilities without charging attorney fees. WACDA is committed to an “all of the above” approach to increasing accessibility and inclusion in Washington state and, in addition to litigation, assists with disability education and awareness efforts, including informing the disability community on disability rights.

For further information, to be placed on the WACDA mailing list, request this newsletter or other materials in an alternate format, or for any additional comments or questions, please feel free to contact us at:



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