

**HUMAN POTENTIAL AT WORK**  
Host - Debra Ruh



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**Guest:** Lainey Feingold      **Guest Title:**

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Debra: Hello, everyone, this is Debra Ruh. Welcome to Human Potential at Work. I'm really exciting to feature my guest, who is a good friend of mine, Lainey Feingold, on the program today. Lainey, welcome to the program.

Lainey: Thanks, Debra, glad to be here.

Debra: Now, Lainey, I really, really enjoy the work that you do and I know for the accessibility and the disability-inclusion field, many of us claim you as our lawyer. We claim you as somebody that's making a really big difference for individuals with disabilities, both in the United States and all over the world.

So I want to talk about your work, but I also want to make sure that our guests learn about the book that you've written and really understand why you wrote the book. I'm in the middle of reading the book. I've found it to be excellent. I really want to give you time during the program, to really talk about your work and the book. So thank you again.

Lainey: Thank you.

Debra: So Lainey, will you tell the listeners a little bit about your background and the work you do and also the title of your book and a little bit about your book?

Lainey: Sure. So Debra, like you said, I'm a disability rights lawyer and I have been working with the blind community in the United States for 22 years this year, on access to information and technology. And the way I've done that work is with a process called structured negotiation, which is a way of resolving legal disputes without filing lawsuits.

It started back in the mid-90s, when blind people had no access to ATMs, automated teller machines. And instead of suing United States banks, we wrote three letters back in 1995, to Bank of America, Wells Fargo and Citibank, saying, you really need to have ATMs that blind people can use independently. It's so important to financial privacy and security. It's a violation of the Americans with Disabilities Act, but rather than sue, we'd like to work with you on a solution.

And fast forward four years, all the banks said yes. We worked and developed talking ATMs, with a group of blind individuals, the California Counsel of the Blind, and towards the end of that, all of a sudden, in addition to the need for ATMs, people had started doing their banking online. And we went to Bank of America and said, you know, we haven't mentioned this before but there's this

relatively new thing called online banking, and that has to be independently usable too.

And that got me on the path of working with large organizations, both public and private, on accessibility issues. Bank of America signed the first web accessibility agreement for their online banking platform, back in 2000, and the process worked. Done it with Major League Baseball, on their websites with baseball fans who are blind in Boston. We've worked on talking prescription labels, accessible pedestrian signals.

And the reason I wrote the book, which is called Structured Negotiation: A Winning Alternative to Lawsuits, is because I really believe in this process, and it's been so effective for 20 years with the blind community. Other lawyers are starting to use it in other disability rights cases, and I really think it has promise for lots of different kinds of cases. So that's why I wrote the book.

Debra: Well, and you and I have had lots of conversations about this, and I know you're like me, you're active out on social media and we featured your work on ASXChat, that I do every Tuesday. And so we've had some of these conversations, but I'm often asked when I travel outside the United States, why -- I'm going to be asked a lot of questions, I'm sure, in the future now, but anyway, I'm asked, why do you Americans use lawsuits the way you do? You have your legislation. Why doesn't everybody just comply with the law? Why do you have to have lawsuits to make corporations or other organizations comply with our laws?

And so what I say, as somebody that is not a lawyer, is well, that's just the way we do it in the United States. But why do we, Lainey? Why is this something that we do as Americans? Because what I've also seen, is I've seen lawyers, and to be honest I think I'm seeing less of this, but I see lawyers or law firms that were suing corporations and saying, your websites aren't accessible, and then the corporation would settle. But the websites would still be inaccessible, so it felt to me that the losers of this was the community of people with disabilities. So that's why I've always really enjoyed the work you do, because you're about, what can we do together to solve this problem and be innovative, and let's take this innovation and let's pick it up and let's use it in other areas, to make sure that certainly people with disabilities have full access, but so that we all have full access. So tell us more about that, from an attorney's perspective, Lainey.

Lainey: Well, I think it's really important, and I say this several times in the book, that structured negotiation is a strategy. It's a tool to enforce the law. And I think that it's really important to remember that we are lucky to live in a country -- this feels sort of very true right now this week, that has civil rights laws and that lets disabled people go to court to enforce rights.

Now, I have used this method where we don't go to court, but many people do go to court in very equally respectful, I want to say, ways, as I practice law. They're just using a different strategy, going to court. So we're lucky, and I try to say this in my presentations, that the law in the United States sometimes gets a bad reputation. Oh, anybody who sues is just about money or why do we have so much litigation? But the truth is, we are lucky and a lot of countries don't have this, to have a civil rights law like the Americans with Disabilities Act, that gives people the right to enforce the law and it doesn't just wait for companies to do the right thing.

A lot of companies do the right thing. Those companies don't get sued and they don't get structured negotiation letters. I prefer and my clients prefer working with organizations in a collaborative process. One reason for that, and I write a lot about this in the book, is that structured negotiations allows the organizations to meet their disabled, customers, members, members of the public. And that is so important, Debra, you know from your work, doing employment integration work. Once people meet disabled people and understand what the needs are as people, then it's a lot quicker to get to solution.

So in the book, I talk about a lot of meetings we've held. Meetings with the credit reporting companies in the U.S., when blind people didn't have access to free credit reports. Meetings with bankers who didn't understand that ATMs needed to talk. Meetings with pharmacy people about the need for prescription labels. So I prefer doing things outside the court system, but we have to very much protect the right of people to be able to go to court and enforce civil rights in this country.

Debra: I agree, and I will let our listeners know that I am interviewing Lainey two days after we actually voted for President Trump. So we're still learning to understand the new reality we have in the United States. But one thing that we've seen from a lot of the efforts that are being made in the United States, and especially the efforts that you're making, Lainey, is we have seen innovation that's happening all over the world because of the efforts.

Often, the conversations are being held, about what do we do to make sure that we implement the convention on the rights of persons with disabilities, and make sure that banks are accessible in other parts of the world, actually because of the work we're doing right here in the United States.

And I know that you are becoming a more and more frequent guest in other countries, wanting to talk about how we've done it, what can they learn from it. Can they/should they set up their judicial system the same way we have in the United States? No, we're not saying that, but what we're saying is exactly the words you used. This is a civil rights issue. People with disabilities need access to technology, in the same way everybody else does. Often on my show, I talk about people with disabilities are not broken; they're people.

And so that's why your work has always really inspired me, and I bought the book. Often, people will send me a copy of a book and they'll say, "Review it," and I wanted to support your work, so I bought a copy of the book and I'm reviewing it.

Lainey: Thank you, Debra, thank you.

Debra: I wanted to put my dollars on the book.

Lainey: I appreciate that.

Debra: Yeah, I think sometimes we really have to do that, when we believe in it. But the lawsuits, according to an article I read, the lawsuits for web accessibility, in August 2016, were up 63 percent since the previous year. And I know another thing, gosh I admire you in so many ways, but another reason why I admire you is because you're not just saying, okay, I got this. You are actually working with a lot of other attorneys, attorneys with and without disabilities, trying to encourage them to join this effort and you're actually teaching them what you know. Because I know I'd introduced you to a couple of different attorneys, some on both sides of the fence, and you encouraged them to get involved in -- I don't know if I'm saying this correctly -- a subcommittee of the ABA? Could you talk a little bit about how you're encouraging other lawyers to really think of this in a way that we can have better impact for people with disabilities?

Lainey: Yeah, that's good. I'm glad you mentioned that. We have an organization. It is not related to the American Bar Association. It's called the Disability Rights Bar Association. We call it DRBA, and it was founded about 10 years ago. There was a group of us who got together, spearheaded by Dan Goldstein and the National Federation of the Blind, and we wanted a place where lawyers all over the country, working in different ways, with the unifying thread of supporting the rights of people with disabilities, where they could come together, exchange information, learn from each other, be mentors, be mentees.

I'm really excited that the Disability Rights Bar Association has grown and flourished, and we just had our first West Coast conference in Las Angeles, on the intersectionality of disability rights with other types of civil rights. We have a half-day conference as part of the tenBroek Legal Symposium that the NFB does every year. And we have a closed email list, so people can feel free to exchange ideas, try new ideas, learn from each other, and we encourage, like you said, whoever recommends people to me or if I meet people, I really encourage them to participate in DRBA because all the disability rights lawyers in the United States who are doing this work, are part of this organization. And if you're not, you should be. If your listeners are disability rights lawyers, then yeah.

# HUMAN POTENTIAL AT WORK

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Debra: I agree, I agree. And if you are a lawyer that is actually engaged in this in any way, if you're a lawyer that wants to get more involved in suing people, lawsuits, structured negotiations, you really should consider being part of this group. Is there a website? Or how would a lawyer find out more about that, Lainey?

Lainey: Yeah, there is a website. I'm going to check it right now. It's D-R-B-A, but that's also an abbreviation for other things, so you have to put in DRBA Disability. The actual website is [DisabilityRights-Law.org](http://DisabilityRights-Law.org). And we have requirements. It's only for people representing disabled people, so people can feel open and candid about sharing information, and we also have a law student branch of the organization. So there's certain requirements. Even though there's good people in all roles doing disability work, for example many government lawyers have been such champions in the Obama administration for disability rights. People in the Department of Justice, people in the Department of Education. They're not part of our organization because we're just lawyers representing disabled people, but especially this week, I want to mention the really strong and incredible work that our federal agency staff has done for our rights in the past eight years.

Debra: Yeah, we will -- yeah, it's a whole different world now. So Lainey, if I'm a corporation listening, because I know a lot of people that work for corporations that are really trying to get their hands around this, if I'm listening, sometimes I'll tell you, I think corporations are very confused on this topic. I have corporations coming to me, and it's not just corporations but I'm just going to speak from the corporate lens for a minute. I have corporations coming to me saying, we've spent \$250,000 with a disability organization, we felt that we were fully accessible and we still got a demand letter. So how do you expect us to have a technological solution in a manual way? It's so hard and it's so gray.

How do you, from the perspective you're coming from, how do you help corporations or what advice would you have for corporations that they want to do the right thing, they want to make sure that all customers have access, all employees have access? What kind of suggestions would you have for those listeners?

Lainey: Yeah, that's a good question. I think now is a good time to say I am a lawyer, so anything I'm saying on this show is not legal advice, particularly the answer to this question, where you're asking me for advice for someone who might get a request or a demand letter from another lawyer. It has to be treated like any other business process. You have security, you have privacy, you have accessibility. So when you're choosing vendors, make sure you're interviewing two or three vendors. Talk to their other clients. Be very specific about what you want. Make sure you have a vendor on accessibility, that meets not just your specific needs for training or technology, but also meshes well with your corporate culture. Because our goal is not to have accessibility be an add-on, but to be something that's integral, just like other business processes are integral.

The other thing I always say, and I still stay this, is tell the world what you're doing. You know, I keep track and there's another person who's been keeping track of accessibility information pages. You can look on my website, which is [LfLegal.com](http://LfLegal.com). The way I find it myself, because my website is like my filing cabinet, I just look up "Hitachi." The Japanese company only appears once on my website, and it is in this post where I have accessibility information pages from a lot of corporations and government agencies. Some lawyers say, well, we don't want to say anything because it might draw attention, but I think the best defense is a good offense and it's very important to have a good customer service phone number and a good email address, that will be answered quickly, but someone who understands accessibility.

Which gets to the third thing that I say to everyone: Training, training, training, especially for your customer-facing people, because too many cases -- my structured negotiation, I talk about this in the book, cases that start when a blind person calls a company and says, I need to get my explanation of benefits, would you send it to me in braille, and they're like, "Don't you have someone who could read it to you?" And I can't tell you how many cases, whether they be structured negotiations or lawsuits, start exactly like that, and how many times frontend staff turn customers into legal advocates by not responding properly to customer requests.

So that's really the best advice that I can offer, is training, tell the world what you're doing, have a plan and make sure you have good vendors to help you implement it.

Debra: Which are all very wise words. I've written several books. I wrote a book on employment and retention for people with disabilities, and my goal was to write from the perspective of the employer, because I think there's a lot of confusion in the information. So what do you need to do as an employer, and hint, it's pretty much what you should be doing for all your employees, but yes, you should be accommodating employees that request it and things like that.

But my real love is strategy and branding. And so when I wrote that book, I reached out to a lot of corporations that I've worked with in the United States and said, can I please feature you in the book, because I know you've actually done some really good things, employing people with disabilities or you made your website successful or your products, and pretty much a lot of the U.S.-based companies said, no, no, no, Debra, we don't want to be in the book because it's going to make us a target for a lawsuit. And so I had 31 corporations in the book, and a lot of them were from outside the U.S., even though a lot of them are U.S. brands.

But then I think what has happened, and I'm very excited about this, I'm working on my third book about branding inclusion, and I think it's very, very important that brands do talk about what they're doing, just from what you said. If you think by not talking about the efforts that you're making to make sure all of your technology, your websites, your products, your services are accessible, is going to prevent you from getting a lawsuit, unfortunately that's not correct. It's important to tell your customers that you are a socially responsible company, and part of CSR is full inclusion of everyone, including people with disabilities. So that's something I'm very interested in.

Lainey, when we're talking about accessibility, we're not just talking about supporting the rights of people with disabilities. There's all kinds of other benefits to accessibility. Do you want to talk about that for a moment?

Lainey: Sure. I mean, one good thing, let's talk about something good that happened in the United States election, was the heightened role of disabled people. Very present at the Democratic Convention. A lot of very good articles written by disabled people on what was at risk at this election, both in terms of basic courtesy and respect but also policies and law. And I know you're big on social media, Debra, and you do an amazing job with AXSChat, want to give a shout out to #CripTheVote, who really helped spread the word this election, of disabled people, and gave them a much more public presence, and I think that hopefully will be one positive thing that carries forward and people will, like you say, see the benefits in terms of good policies and including more customers, that kind of thing.

On the technology side, we've said for a long time that an accessible website is more usable to everyone. The organization that writes the standards, the Web Accessibility Initiative, they have a wonderful video series on their website, which is [W3.org/WAI](http://W3.org/WAI), and they just have very short, I think they're two or three-minute videos, about how disabled people use the web, and their tagline is something like "Critical for disability, great for everyone," that sort of thing. My website is designed to be accessible and meet the highest standards, and so many people with and without disabilities say to me, oh, it's so easy to use your website and it's not this light gray on white and I can read it. So an accessible website is a website that's more usable for everyone, it's picked up more easily in search engine, what they call SEO, search engine optimization. If you caption your videos, which is required under the ADA, there's text for search engines to pick up. So there's a lot of benefits to accessibility, besides the core one of ensuring that disabled people can access content.

Debra: Right. I had a non-profit that actually serves people with disabilities. They were a company that if you have a van and you need to make the van accessible to an individual that can't drive a car in a traditional way, they help them do that. And so they got a demand letter, and so they said, well, what should we do? And I'm

like, I'm so surprised that your website's not accessible, because most of your customers are people with disabilities. "Oh, well, we've been meaning to do it." And so they said, so what do we do, just pay off the lawyer? And I said, well, I would hope the first thing you would do is you would make your website accessible, and like you said, W3C or you have Web Aim. There are so many wonderful resources out there.

Accessibility is not that hard, but where it gets difficult is sometimes the sheer volume of what you have to do. If you're a big government or a big corporation and you have millions of pages of dynamic text, it gets a little bit more tricky, which is why I think the advice you gave earlier, that it just has to be part of your strategy and part of your processes and you have to make sure that if somebody has accessibility issues with your website, that they come to you to talk to them about it and that you are listening and you are going to try to do the right thing by the customer, instead of them having to go to a lawyer to talk to them.

Lainey: Absolutely.

Debra: So Lainey, I know we're out of time and I could talk to you for hours, because I just really, really appreciate the work you're doing, but will you tell our listeners again how to find you on social media, how to find your book and how to find your website? I know we mentioned it a little bit, but I just want to make sure that if somebody didn't have a pen out and they hadn't jotted it down, that we make sure we repeat that again.

Lainey: Yes, thank you. My website is [LfLegal.com](http://LfLegal.com). If you go to [LfLegal.com/Book](http://LfLegal.com/Book), you'll come directly to my book page. There's information on how to purchase the book. There's a discount code for a 10 percent discount. My book is also available on Book Share, which is an international library for people with print disabilities, and the information is also there at [LfLegal.com/Book](http://LfLegal.com/Book).

I'm on Twitter, @LfLegal, and you can find me through there, and I do have an email list where I send out digital accessibility legal updates, as well as information about my book. You can reach me through my website or you can send me an email at [LF@LfLegal.com](mailto:LF@LfLegal.com).

Debra, I am speaking about the book in different places, and if people go to my website, like for example I'm going to be in Toronto February 9 and 10, and I have other things planned in the coming months, all the way through next June, so I really would love to meet some of your listeners, some of my readers. So you can check out the website for what's coming up.

I had the opportunity to speak at the Funka Conference in Stockholm last year, and I'm looking for additional speaking opportunities. I really feel passionately about spreading, really, there are two themes of this book, and one is problem

