**Remarks by Commissioner Chai Feldblum**

**Paul Hearne Award**

**ABA Commission on Disability**

**August 3, 2015**

Thank you very much. I am truly honored to receive the Paul Hearne award.

I *really* liked Paul Hearne. Many of you may not have met Paul when he was alive, but I was fortunate to have met him several times during passage of the ADA. Paul was smart, funny, energetic and thoughtful. These are all very good things in the world of Washington politics. And as you can see from the work Paul did throughout his life, his work on the ADA was simply one of his many contributions to the disability rights movement.

I am delighted that this award has been established in Paul’s memory – so that his work and his being is always remembered.

I am particularly appreciative of the fact that several people whom I have mentored over the years – people whom I have taught and people from whom I have learned – nominated me for this award. In my mind, among the important things in life is to do work that matters and to do it with passion – ***and*** to spend time mentoring others who will carry on the fight for social justice. The group of people who have nominated me for this award fit into that category. I feel blessed to have worked with them.

Paul Hearne was among the leaders in the early disability rights movement. People like Paul gave hope to the idea that people with disabilities would be included – truly and completely – in the life of our country. That would mean working in integrated, competitive employment – not in segregated workshops; it would mean living in the community not in an institution; and it would mean having a family like everyone else.

But it was not only people with manifest disabilities – like Paul – who contributed to the disability rights movement. Many people have hidden disabilities. These may be physical disabilities, such as epilepsy or diabetes or cancer or AIDS. These may be mental disabilities, such as depression or anxiety disorder (which I have) or bipolar disorder or schizophrenia.

We are all members of one community. We are all on the spectrum of ability. We are all potentially subject to discrimination. Different forms of discrimination, for sure. But still, discrimination that must be stopped and remedied.

On this 25th birthday of the ADA, let’s reflect on the fact that we are potentially at a transformative moment in increasing the employment rate of people with disabilities. And increasing that rate is key -- having a well-paying job means having freedom and security.

I see this time now as a potentially transformative moment because three realities are converging.

**First, people with disabilities have greater *expectations* of what they will do in their lives.** We have a generation or two of people with disabilities who were educated in integrated settings and who expect to work in paid, competitive jobs just like everyone else. We have an established social understanding that shutting people with disabilities away in institutions is not ok. And we have a generation of young people with disabilities who have *grown up* *with the ADA*. The ADA, together with the laws that came before it, has changed not only the expectations of people with disabilities -- but the expectations of people around them.

Rights and expectations work together. When rights are enforced, high expectations follow. High expectations ensure that people exercise their rights.

**The second reality is that enforcement of the rights of people with disabilities today is not only more vigorous – it is also deeper.**

Here is what I mean by that:

In terms of enforcement of a *non-discrimination requirement* – which is what the ADA provides -- passage of the ADA Amendments Act of 2008 made a huge difference in enforcing the ADA. By restoring a broad definition of disability under the ADA, ADA cases now have some real chance of succeeding. Because of that, more plaintiff lawyers are willing to take ADA cases, more management lawyers are focused on ensuring compliance up front by their clients, and federal agencies such as EEOC, the Department of Justice and the Department of Labor are bringing significant enforcement actions. This is all good.

But enforcement of the ADA, no matter how vigorous, will never be enough to bring down the unacceptably high rates of unemployment and underemployment among people with disabilities. The ADA is a necessary, but not sufficient, condition for that end goal.

The high rates of unemployment for people with disabilities that we have statistics for reflect only a subset of people with disabilities: people who are deaf, blind, have significant mobility impairments or who need assistance in certain activities of daily living. So this rate does not include the millions of people with hidden disabilities, many of whom have very good jobs and are keeping them right now because of the ADA.

But this subset of people with disabilities, captured in our national unemployment statistics, are the ones most likely to face hurdles just getting through the door to a good job. And failures to hire are the hardest to prove as cases of discrimination under the ADA.

So a deeper enforcement of the employment rights of people with disabilities lies in the implementation of the affirmative action obligations of Sections 501 and 503 of the Rehabilitation Act of 1973, that govern the federal government and federal contractors respectively. These affirmative action requirements have existed since 1973. But it is only recently that the federal government has begun to infuse that obligation with a clear articulation to federal contractors and the federal government about what affirmative action requires. Articulating these requirements, and following that up with real oversight, can be a game changer. If we create real incentives for federal contractors and the federal government to affirmatively seek out and hire people with significant disabilities – that could make a dent in the unemployment rate.

**The third reality converging now is that more and more people with disabilities are owning disability pride**. The concept of disability pride is not new. When I was working on the ADA, I learned so much from people in the independent living movement about disability pride. As a lesbian with a hidden disability, I have seen the power of LGBT pride and I have seen the power of disability pride. More and more people with disabilities, especially people with hidden disabilities, are coming out.

Coming out will ultimately reduce the stigma of disability. No longer, I hope, will we hear people say – “oh, I don’t even think about you as a person with a disability” – which some people still think is the highest praise. No. People will say – “I see that your disability is part of you; I see that there is nothing wrong with that; and I’m so glad you are here doing your job well.” That, to me, is where we should get to with disability pride.

I hope that the current young leaders of the disability rights movement will leverage these three realities to the n’th degree. If they do so, I believe the next 25 years will be even more remarkable in achieving true equality and inclusion for people with disabilities across this great country.

Paul Hearne inspired so many who followed in his path. I have been inspired by so many who have come before me. Thank you for doing me the honor of awarding me the Paul Hearne award for the work I have done over the past 30 years.

And I urge you to remember the following names – Marcy Karin, Kevin Barry, Kim Bart Mulliken, Emily Benfer, Michael Teter, Robin Runge and Colleen Shanahan. These are the people who nominated me for this award. I would not be surprised if, 25 years from now on the ADA’s 50th birthday, one of those people will be getting the Paul Hearne award.

Thank you so much.