

# THE RECORDER

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## Meet Early, Settle Often

*Taking talk-first, sue-later tactics to the public sphere*

By Matthew Hirsch

RECORDER STAFF WRITER

**L**inda Dardarian and Elaine “Lainey” Feingold are in the midst of a long winning streak in disability access cases — and so are their opponents.

In eight years, the East Bay plaintiff lawyers have settled more than two dozen disputes without filing suit, or even bringing in a mediator.

Now, after targeting Fortune 500 companies to deliver public accommodations, such as ATMs retooled for the visually impaired, the two have begun testing their settle-first strategy on public agencies. On Wednesday, they announced a deal with the San Francisco Municipal Transportation Agency that provides for new audible pedestrian signals at a minimum of 80 traffic intersections.

But the East Bay attorneys face some uncertainty as they take their negotiating tactic into uncharted waters. Some disability lawyers say branching out from the model that’s made them successful might make it harder to convince target organizations they’re better off playing ball.

When Dardarian and Feingold send demand letters to organizations they claim are violating disability access laws, they offer to avoid litigation by sitting down with a small group of defense lawyers and technical experts and working out an agreement, a format known as structured negotiation. The letters generally mention the legal basis for a claim of attorneys fees, as well, Dardarian said.

From square one, the plaintiff lawyers’ success depends on carefully balancing cooperation with the looming threat of litigation.



**NEW TARGET:** East Bay attorneys Elaine “Lainey” Feingold, left, and Linda Dardarian have used so-called structured negotiations to get several companies — and just recently, a public agency — to make adjustments to benefit disabled people.

CHRISTINE JEGAN

Dardarian, a partner at Oakland’s Goldstein, Demchak, Baller, Borgen & Dardarian, might be best known for wage-and-hour class actions. She was co-lead counsel in an overtime suit against Siebel Systems Inc. that settled in April for \$27.5 million. And two years ago, she brokered a \$30 million settlement with Countrywide Home Loans for account executives who claimed they were improperly classified as exempt from wage-and-hour laws.

In the mid-1990s, Dardarian’s law partner, Barry Goldstein, heard from a blind attorney friend that he had trouble withdrawing money from ATM machines. That prompted Dardarian to plunge into disability access cases with Feingold, a Berkeley solo who used to work at Berkeley’s

Disability Rights Education and Defense Fund.

As a result of their negotiations with Wells Fargo, Citibank and other companies since then, Dardarian said, there are now about 50,000 talking ATMs in the United States, including thousands that communicate in Spanish and English.

More recently, Dardarian and Feingold have gotten retailers, including Wal-Mart, Safeway and Trader Joe’s, to install tactile point-of-sale machines so blind customers can use their debit cards without assistance. They’ve also been working to persuade companies to adjust their consumer Web sites so they’re more user-friendly for people with visual disabilities. They announced a deal with RadioShack last

