

Eliminating Barriers to Justice:

How and Why to Ensure Language Access for Limited English Proficient and Deaf/Hard of Hearing Litigants

by Avarita L. Hanson

The Lawyer’s Creed states that we should: “strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.” This access to justice extends to those with limited English proficiency, and deaf and hard of hearing litigants.

In his 2014 State of the Judiciary address, Chief Justice Hugh P. Thompson addressed the subject of language access:

“As Georgia continues to grow in population and diversity, access to justice is a challenge requiring the commitment and hard work of us all. . . . In addition to poor people, those who do not speak English are entitled to justice as well. . . . To prepare for the future, Georgia’s courts need an army of trained, certified interpreters. . . . Currently, Georgia has only 149 licensed court interpreters, and they speak only 12 languages. That is not enough. . . .”

Through the leadership of Chief Justice Thompson and other justices, and the work of attorneys like Jana J. Edmondson-Cooper, Immediate Past President Patrise M. Perkins-Hooker and countless other Georgia judges and attorneys, we are making strides toward ensuring access to justice for those with language barriers such as limited English proficiency (LEP) and deaf/hard of hearing litigants (DHH).



Spotlight on Jana J. Edmondson-Cooper

I asked Jana J. Edmondson-Cooper, Bilingual Staff Attorney in the Macon Regional Office of the Georgia Legal Services Program (GLSP) and member of the Supreme Court of Georgia Commission on Interpreters (COI), to share her involvement with this important issue—ensuring those persons involved in our judicial system who have limited English proficiency or are deaf or hard of hearing get the justice they are owed, and we had an enlightening dialogue.

AH: How did you get involved in the movement to recognize language as an access to justice issue?

JEC: After fellow GLSP attorney Lisa Krisher and I co-wrote an article in 2012, “Seen But Often Unheard: Limited English Proficiency in Georgia,” Bernadette Olmos, of A.B. Olmos and Associates P.C., contacted us and told us she was pleased to learn that other attorneys were also interested in addressing language access challenges faced by LEP and DHH litigants. As a result, the three of us formed an ad hoc committee of attorneys representing various public interest organizations and the private bar that began meeting monthly in January 2013. We discussed ongoing issues seen in courtrooms statewide regarding language access and in several practice areas including family law, education law, criminal law and civil rights, and later invited other attorneys, interpreters and judges to discuss these issues in greater depth. The committee decided that one way to tackle the common problems of language access in the courts was to develop a comprehensive training where language access stakeholders, especially attorneys and judges, would learn best practices when using interpreters in legal proceedings, strengthen cultural competency skills and learn the legal ethics of language access.

AH: Can you share some contexts where language access and the need for an interpreter are at issue?

JEC: Here are a few anecdotes provided by Georgia attorneys:

SCENARIO #1: An attorney represented a client in a family violence matter on a day when no interpreters were available. The judge asked the bailiff to go to the local Mexican restaurant and grab somebody to come and interpret for the proceedings.

SCENARIO #2: During the



first consultation visit with his client, an attorney noticed he was not fully connecting with the client. The attorney was fluent in Spanish, but the client’s Spanish was “broken.” The attorney found that the client was from an indigenous tribal community in Mexico and Spanish was her second language. The client risked losing her children after a deprivation determination and needed someone throughout the process to explain the matter. When the client reached the Spanish-speaking attorney who identified the language barrier, she had already lost her children due to inadequate provision of interpretation services during the juvenile court proceedings.

SCENARIO #3: During a family violence hearing, the court used an interpreter who, unbeknownst to the attorneys, was not licensed by the state of Georgia. Portions of the witness’s testimony were omitted from the record, the hearing had to be stopped and the parties had to return the next day, creating further delay in seeking relief for the client.

SCENARIO #4: A client who was hard of hearing visited

the office, producing a letter from a relatively new superior court judge who said the client was not entitled to a sign language interpreter for his court appearance and would have to pay the interpreter himself because he had a civil case. After the attorney sent an email to the judge’s law clerk, the law clerk and the judge reviewed the law and found that the court had to provide and pay for a sign language interpreter.

AH: These examples do show why trainings are so important. What did you cover in the first CLE program for Georgia attorneys and judges on language access?

JEC: Last year, our ad hoc committee’s vision became Georgia’s first comprehensive statewide language access CLE for attorneys and judges: “Eliminating Barriers to Justice: Addressing Ethical Considerations, Cultural Competency and Best Practices for Ensuring Meaningful Access to Georgia Courts.” Justice Harold Melton, the immediate past chair of the Supreme Court of Georgia Commission on Interpreters (COI), delivered the keynote address. The 2014 CLE provided attorneys needed tools for effective advocacy for LEP/

DHH clients: how to request and ensure effective interpretation in legal proceedings and advocating for language access in legal documents for clients, such as model pleadings for requesting court-appointed interpreters.

AH: Tell us about the second CLE you presented in 2015.

JEC: As a result of the CLE's success and requests for additional language access trainings, we presented Georgia's second language access CLE held last March: "Eliminating Barriers to Justice II: How and Why to Ensure Language Access for Limited English Proficient and Deaf/Hard of Hearing Litigants" (EBJ II). Both CLEs are available for online viewing and written training materials are accessible.

AH: What was different about the second CLE?

JEC: The recent CLE focused on why it is important to ensure access to justice for LEP and DHH litigants and issues of legal ethics and professionalism. Attendees learned about access to justice for pro se litigants and the requirement of all Georgia courts to appoint a sign language or foreign language interpreter in all legal proceedings at no cost to the LEP or DHH litigants and witnesses. Attendees learned how qualified interpreters are vital to attorneys and judges to fulfill their professional ethical obligations, how to work most effectively with an interpreter and the risk of reversible error on appeal when an unqualified interpreter or no interpreter is appointed as needed.

The right to a free, court-appointed interpreter is applicable in all Georgia legal proceedings, criminal and civil. A court's failure to provide a qualified interpreter, as needed, can result in reversible error on appeal. There is also a right to appointment and use of inter-

preters in administrative and alternative dispute resolution forums in Georgia, grand jury proceedings, and for all court-managed functions, including information counters, intake or filing offices, cashiers, records rooms, sheriff's offices, probation and parole offices, pro se clinics, criminal diversion programs, anger management classes, detention facilities, and other similar offices, operations and programs. To be recognized as a court-qualified interpreter or qualified sign language interpreter in Georgia, an interpreter must hold a current certification from the Registry of Interpreters for the Deaf. The Commission has three licensing designations for foreign language legal interpreters in Georgia—Certified, Conditionally Approved and Registered and, according to the Supreme Court of Georgia Rule, courts are required to make a diligent effort to appoint interpreters from the Certified category first, then the Conditionally Approved, then the Registered categories—with a diligent search required to move to the lesser qualified or unlicensed interpreters. An interpreter's licensing designation is easily verifiable from the Commission's statewide interpreter registry, available online.

AH: How were professionalism issues specifically addressed in the seminar?

JEC: Michelle West, the director of the State Bar of Georgia Transition Into Law Practice Program, discussed language access and professionalism, and emphasized that today's judges, attorneys and interpreters face more challenges with ensuring language access to all clients due to current and changing demographics. Lawyers have a duty to all clients, including those with limited English proficiency and who are deaf/hard of hearing,

to enlist a heightened sense of professionalism.

AH: What did attendees learn from language access experts and stakeholders?

JEC: Attendees dialogued with national and statewide language access experts and stakeholders during our stakeholders panel: "Real Talk: Making Language Access in Georgia Courts a Reality." Moderated by Judge Christopher J. McFadden, Court of Appeals of Georgia, vice chair, COI, the panel included: Judge Melodie Clayton, Cobb County State Court; Judge Rizza P. O'Connor, chief judge, Toombs County Magistrate Court; Judge Norman Cuadra, chief judge, Suwannee Municipal Court, judge, Chamblee Municipal Court; Shinji Morokuma, director, Georgia Judicial Council, Administrative Office of the Courts Office of Certification and Licensing; and Konstantina "Tina" Vagenas, chief counsel, Access-to-Justice Initiatives, National Center for State Courts. Topics included: the importance of building a strong record at the trial court level for appeals purposes when an attorney faces language access challenges in a case; insights on Georgia's progress in language access; the unique challenges that municipal and magistrate courts face with LEP pro se litigants; how COI staff may assist judges and court personnel with locating qualified interpreters, especially interpreters of rare and indigenous languages; and how interpreters assist attorneys with fulfilling our own professional ethical obligations, including the duty of effective communication (GRPC 1.4) and the duty to maintain client confidences (GRPC 1.6). The keynote address focused on ethical considerations of representing LEP and DHH clients

and was given by Supreme Court of Georgia Justice Keith Blackwell, current COI chair.

In conclusion, let me say that Atlanta's John Marshall Law School has been an excellent partner and greatly contributed to the success of both CLE programs. We especially appreciated the encouraging closing remarks provided by Dean Malcolm Morris at the close of EBJ II, which he started in approximately seven different languages!

AH: So what are the future needs and plans for Georgia lawyers and judges to learn and do more about language access to meet our professional and ethical obligations to ensure access to justice?

JEC: The CLE programs provided attorneys, judges and interpreters with the necessary information and tools to address language access issues in their respective communities and courts. Georgia has come a long way in ensuring

that LEP and DHH individuals have meaningful access to our courts and have benefitted greatly from the tireless efforts of our judicial councils, the Administrative Office of the Courts, the consistent leadership of the Supreme Court of Georgia in making language access a priority, and the organizations and private attorneys across our state who represent LEP and DHH individuals in legal and administrative proceedings each day.

There is much more work to do. We hope to continue providing training opportunities to judges, attorneys and other stakeholders in this area and tackling more advanced issues within the context of language access. The Commission on Interpreters is developing a model administrative guide to assist courts in meeting their obligations to provide interpreters and other language services and welcomes feedback from across the state regard-

ing what language access challenges you may be facing and ideas you may have for possible solutions to address these challenges. You can learn more about the Commission here: <http://coi.georgiacourts.gov/> and resources from the CLE can be found at http://www.georgiaadvocates.org/library/folder.477488-Georgia_Court_Interpreter_Resources. 



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