A NATIONAL FORUM FOR THE INTERPRETING PROFESSION

Interpreting and the Law

An Introduction to Key Legal Issues Facing the Interpreting Profession

By Bruce L. Adelson, Esq.

1st North American Summit on Interpreting

www.interpretamerica.net

Preface

Katharine Allen and Barry Slaughter Olsen, co-presidents of InterpretAmerica, LLC and organizers of the 1st North American Summit on Interpreting, and Bruce L. Adelson wanted interpreters to have a one-stop reference about key laws and legal issues facing the interpreting profession in the United States. This paper is the product of our intentions. Although this paper is not meant to be inclusive of all legal issues facing interpreters and the interpreting profession, it does discuss many of those that we considered the most significant. I want to thank Katharine and Barry for asking me to write this paper and for their initiative and vision for the 1st North American Summit on Interpreting, held on June 17, 2010 in Washington, D.C.

For interpreters, two landmark federal laws offer the foundation for their profession. Title VI of the Civil Rights Act of 1964 requires federally subsidized organizations to provide spoken language assistance to limited English proficient people. The Americans with Disabilities Act requires that people who are deaf and hard of hearing be provided with accommodations so that aural communications are accessible to them. The same accessibility accommodations must be provided to individuals who are blind or have visual disabilities. These federal laws will be discussed in the following two sections.

We hope that you find this paper instructive and helpful.

Sincerely,

Bruce L. Adelson, Esq.

May 1, 2010

About the Author

Bruce L. Adelson is CEO of Federal Compliance Consulting LLC. Based in the Washington, D.C., area, Federal Compliance Consulting LLC offers a wide range of services, including: risk management assessment; training and education; preparation and review of Limited English Proficiency plans; on-going compliance consultation and technical assistance; and consultation in case of complaints, lawsuits, or federal investigations.

Bruce is a former U.S. Department of Justice, Civil Rights Division Senior Attorney. During his Department of Justice career, Bruce had national enforcement responsibility for federal voting laws and Title VI of the Civil Rights Act of 1964, which prohibits federal financial assistance recipients from discrimination based on race, color, or national origin.

Bruce is a nationally recognized expert on the Department of Justice, federal voting laws, Title VI, and federal mandates for non-English language assistance.

At the U.S. Department of Justice, Bruce was the attorney responsible for Title VI compliance by the U.S. Department of Transportation ("USDOT") and its recipients. Bruce provided USDOT with Title VI training and technical assistance and was responsible for answering USDOT inquiries about transportation-related Title VI compliance issues. Bruce also reviewed, edited, and approved USDOT's 2005 Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons prior to its Federal Register publication.

His areas of expertise include:

- Title VI of the Civil Rights Act of 1964;
- Title IX of the Civil Rights Act of 1964;
- Voting Rights Act;
- Help America Vote Act;
- National Voter Registration Act;
- Uniformed and Overseas Citizens Absentee Voting Act; and
- Americans with Disabilities Act.

Before his government service, Bruce was in private practice with a small law firm in Alexandria, Virginia, where he did primarily plaintiffs' complex civil litigation, including successful suits against three Roman Catholic Archdioceses for child sexual abuse by clergy. Bruce was also a Housing Attorney for Legal Services of Eastern Michigan, where he successfully litigated cases alleging violations of Michigan Landlord-Tenant law, the National Housing Act and the U.S. Constitution.

Bruce is the published author of 14 books for children and adults. Among his works is *Brushing Back Jim Crow - The Integration of Minor League Baseball in the American South* (University of Virginia Press), a finalist for the 1999 Seymour Medal. Bruce has also been a commentator for *National Public Radio* and *CBS Radio* and a reporter, with his works appearing in many publications, including: *The Atlanta Journal-Constitution*; *The Washington Post*; *Sport Magazine*; and *USA Today's Baseball Weekly*. Bruce is also the author of *Title VI, Limited English Proficiency and the Public Lawyer, What You Need to Know to Comply With a Broader Americans with Disabilities Act, Minority Language Election Rules and the Public Lawyer,* and *Bailout from the Voting Rights Act: A Reward for Complying with Federal Law***,** all published by the American Bar Association.

Bruce L. Adelson, Esq.
Federal Compliance Consulting LLC
11808 Becket Street
Potomac, MD 20854
301-762-5272
240-536-9192 fax
badelson1@comcast.net

Table of Contents

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

I. The Legal Basics

Title VI, 42 U.S.C.§2000d, prohibits discrimination based on race, color or national origin by federal financial assistance recipients. This section of the act was intended to ensure "that the funds of the United States are not used to support racial discrimination."[i]

Section 601 of Title VI states that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." This section prohibits intentional discrimination by recipients of federal financial assistance. The statute's national origin discrimination prong has been interpreted to mean language-based discrimination and to require the provision of language assistance to people who speak little or no English. This part of the law will be discussed in detail below.

Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity "to effectuate the provisions of [Section 601]… by issuing rules, regulations, or orders of general applicability."[ii] The U.S. Department of Justice's regulations promulgated pursuant to Section 602 forbid federal aid recipients from discriminatory conduct that disproportionately impacts individuals because of their race, color, or national origin.[iii] Section 602 also empowers federal agencies to terminate federal funding to a program, or otherwise sanction such a program, that is found to have violated Title VI.[iv]

Title VI applies to all recipients of federal funds or financial assistance, such as states, counties, municipalities, hospitals, and many other organizations. Title VI applies during the time that they receive the federal assistance. After this time expires and the assistance ends, so too does the application of Title VI.

Federal financial assistance for purposes of Title VI includes more than cash or direct grants. Such assistance also includes:

- Use or rent of federal land or property at below market rates;
- Medicare and Medicaid reimbursement;
- Economic stimulus money from the American Recovery and Reinvestment Act of 2009;
- Federal training;
- Loan of federal employees; and
- Other arrangements that have the intention of providing financial assistance.

For Title VI purposes, federal financial assistance does not include, for example, insurance contracts, tax credits, licenses (such as pilots' licenses and licenses to operate radio or television stations), and programs regulated by the federal government (such as the air traffic control system).

Under Title VI, private plaintiffs can sue for money damages and injunctive relief.[v] Individuals claiming that a federal aid recipient has violated Title VI can also file an administrative complaint with the federal agency that funded the recipient or with the U.S. Department of Justice ("DOJ"), the federal agency empowered by law to interpret and enforce Title VI. Acting within its discretion, the federal government can investigate the Title VI complaint and sanction recipients if found to be in violation.

The U.S. Supreme Court has held that under Title VI, federal aid recipients must provide non-English language assistance to limited English proficient ("LEP") individuals who utilize the recipients' federally subsidized services. In *Lau v. Nichols*,[vi] the Supreme Court interpreted Title VI implementing regulations promulgated by the U.S. Department of Health, Education, and Welfare (now the Department of Health and Human Services).

In *Lau,* the Court required a San Francisco school district with a significant number of non-English speaking students of Chinese origin to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs. *Lau* conflated Title VI's national origin discrimination prong with non-English language-based discrimination. Thus, the failure of federally assisted programs to provide LEP individuals with "meaningful access" to these programs in their relevant non-English languages can constitute national origin discrimination in violation of Title VI.

In 2000, President Clinton took Title VI a step further. He signed Executive Order 13166, which requires all federal agencies to promulgate regulations and guidance for their financial assistance recipients regarding the provision of services to LEP individuals. The executive order does not create or confer individual rights. Instead, it directs federal agencies to assist their federal financial assistance recipients with their Title VI compliance. In 2002, the U.S. Department of Justice issued its LEP regulations – *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* ("DOJ's Guidance").[vii]

Other federal agencies modeled their regulations on DOJ's and most issued their own regulatory guidance subsequently. For example, the U.S. Department of Health and Human Services (HHS) issued its *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* in 2003.

Faced with the Title VI mandate, what should federally funded organizations do? The first place to look for answers is their federal funders' Executive Order 13166 regulations and guidance.

DOJ's Title VI Regulatory Guidance outlines a four-factor analysis for federal assistance recipients to use when assessing how to ensure "meaningful access" to their programs and activities by LEP persons. The four factors are:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the grantee;
2. The frequency with which LEP individuals come into contact with the program;
3. The nature and importance of the program, activity or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient and costs.[viii]

After completing the four-factor analysis assessment, federal assistance recipients "… should develop an implementation plan [an LEP plan] to address the identified needs of the LEP populations they serve."[ix] The development of an LEP plan is essential because the plan's existence and effective implementation can show compliance with Title VI, both to a court, in case of suit, and to the federal funder, in case of complaint against the recipient.

Federal agencies and recipients use the four-factor analysis to determine how to comply with Title VI. As the analysis suggests, DOJ treats each recipient, and its federally assisted program, differently. The extent that a recipient must provide "meaningful access" to its programs for LEP people will depend upon the "nature and importance" of the services provided.

II. Intentional Discrimination Standard

In *Alexander v. Sandoval*,[x] the U.S. Supreme Court, in a 5-4 decision, changed the law, holding that private, non-federal government plaintiffs must prove intentional discrimination rather than merely disparate impact to win a Title VI lawsuit.[xi] This change has made it more difficult for private plaintiffs to win Title VI suits since they now must prove the existence of a discriminatory purpose or intent in the challenged action. Such proof is typically more extensive and complex than the evidence needed to prove that an action had a discriminatory disparate impact on a racial or language minority group or individual.

In *Sandoval*, the Supreme Court further held that while private plaintiffs have standing to enforce Title VI's Section 601, they have no right to bring suit to enforce the federal implementing regulations that are authorized by Title VI's Section 602.[xii] Such regulations include federal agencies' LEP Guidance to their federal financial assistance recipients, such as the guidance issued by DOJ and HHS.

The Court also reaffirmed that federal agencies retain the power to enforce through litigation the Title VI regulations they promulgated under Section 602.[xiii] In such cases, the government must prove that the challenged actions have a disproportionate, discriminatory impact on individuals because of their race, color or national origin, rather than the stricter intentional discrimination standard that individuals must meet in Title VI cases brought under Section 601.

While intentional discrimination can be difficult to prove, generic private plaintiffs can prevail on an intentional discrimination claim even in the face of facially neutral policies and practices.[xiv] The key is producing evidence to show that a seemingly benign or neutral law,

practice, policy, or procedure in fact was effectuated and/or maintained with discriminatory intent or purpose.

The U.S. Supreme Court has provided guidelines for how to prove intentional discrimination. To show the presence of intent, the Court states, there must be an actual discriminatory purpose.[xv] Racial slurs, or similar "hostile comments" directed at a racial or language minority group or individual, can also be indicative of racial hostility and thus, discriminatory intent.

As the Supreme Court held in the seminal case of *Village of Arlington Heights v. Metropolitan Housing Development Corporation,* 429 U.S. 252 (1977), an "important starting point" in deciding whether discriminatory intent exists is first determining the impact of the official action alleged to be discriminatory.

> Determining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available. [For example,] ... whether [the official action] bears more heavily on one race than another… may provide an important starting point. Sometimes a clear pattern, unexplainable on grounds other than race, emerges from the effect of state action even when the governing legislation appears neutral on its face.[xvi]

The *Arlington Heights* Court and federal intentional discrimination jurisprudence stress that reviewing the totality of evidence, including inferential evidence, and conducting a "sensitive inquiry into... circumstantial and direct evidence of intent" is required to determine the existence of purposeful discrimination. For example, See: *Almendares v. Palmer,* 284 F. Supp 2d 799, 806 (N.D. Ohio, 2003) and *The Epileptic Foundation v. City and County of Maui*, 300 F. Supp 2d 1003, 1014 (D. Hawaii, 2004) (using circumstantial evidence to determine intent in Title VI cases).

Evidence of discriminatory intent may also consist of a government agency applying the same criteria differently for racial or language minorities.[xvii] Discriminatory intent can further be shown by a change in established procedures.

Since *Sandoval*, there is little case law to provide guidance about what constitutes intentional discrimination under Title VI, especially in situations of alleged national origin discrimination. However, one recent case alleging language-based discrimination under Title VI is especially instructive. In *Almendares v. Palmer,*[xviii] plaintiffs claimed that Ohio government agencies knew that some of their customers needed Spanish-language assistance yet the agencies failed to provide it. Indeed, in a prior related state court case, the director of one of the *Almendares* defendants testified that her department had a legal obligation to provide such assistance.

Plaintiffs alleged that defendants' use of "notices, applications, and written communications" that were "almost exclusively in English" to communicate with LEP people whose primary

language was Spanish constituted national origin discrimination cognizable under Title VI.[xix] In addition, plaintiffs alleged that defendants had failed to implement bilingual policies and did not have bilingual employees to speak to plaintiffs in Spanish, further demonstrating the existence of purposeful discrimination. Id.

Essentially, plaintiffs claimed that defendants' continued failure to provide virtually any Spanish-language assistance to LEP people who needed such assistance to access the desired, federally subsidized government service (food stamps) constituted national origin discrimination by preventing plaintiffs from participating equally in the food stamp program.[xx] Indeed, plaintiffs alleged that the government defendants effectively had a "policy, practice, or custom of failing to provide bilingual services."[xxi]

The *Almendares* court found that plaintiffs' prima facie allegations about this continuing failure could constitute intentional national origin discrimination, were sufficient to defeat defendants' attempt to dismiss the case and likewise, were sufficient to defeat defendants' argument that Title VI intentional discrimination did not exist.[xxii]

III. Title VI and Interpreters

Interpreters and translators encounter Title VI and its consequences every day. The following scenarios are typically experienced by interpreters and translators on a regular basis across the United States.

Each LEP individual has the federal right to language assistance. However, an individual may choose to use a friend or relative to interpret for them instead of the interpreter offered by a federally funded organization. In that case, the LEP person can use his/her own interpreter ONLY after the provider has one of its trained interpreters explain Title VI and the federal right to language assistance in the patient's own language.

Then, the provider could ask the patient to sign a waiver of rights. This waiver could indicate that the patient understands his right to free language assistance from the federally subsidized entity but chooses to use his own interpreter. The waiver should also be explained to the patient by the organization's trained interpreter.

The federal financial assistance recipient may use a telephone language line and have in-person interpreters available for language assistance. A telephone language service is often most helpful where a patient speaks a rare language that is not spoken by anyone on the provider's staff. However, while telephone services are helpful, organizations should not rely on them to provide all kinds of language assistance in all cases. The U.S. Department of Justice recommends that using an in-person interpreter remains preferable in most situations. Federally funded organizations are required by law to determine the types of services and personnel they need to provide legally required language assistance.

Entities covered by Title VI should not ask minor children to act as interpreters. Minors are not capable of providing accurate language assistance, especially if they are asked to do so for parents, relatives, or other caregivers. Federal law allows children to serve as interpreters only in emergency situations, such as when a parent or guardian is unconscious and the child is the only person available to give needed information to medical professionals. Federal law states that other third persons, such as friends or relatives, should also not be asked to act as interpreters. The only exceptions would be in emergencies and if the LEP patient waives the federal right to language assistance and chooses to use a particular person instead of the provider's interpreter.

Bilingual staff can provide certain information to LEP people in non-English languages. While interpreters and bilingual staff both fulfill important functions, they are not interchangeable. For example, an employee who is not fluent in a given language, who is unfamiliar with terminology relevant to the situation, such as medical, law enforcement, or court terminology, and is not trained as an interpreter, should not interpret a doctor's instructions, for example, for an LEP patient. Using untrained and unqualified people to provide language assistance could be evidence of intentional discrimination since LEP people would not then receive the "meaningful access" to federally subsidized services that is required by federal law.

While bilingual staff should not typically provide interpretation between doctor and patient, for example, they can fulfill other key roles as part of a federally subsidized entity's Title VI compliance. For example, they can staff a facility's information desk and provide important information to LEP people about how to access various services.

The United States' LEP population continues to grow. The 2010 Census will likely reveal that the United States' LEP population is greater than in 2000, when the previous Census was released. With this growth comes an increased need for LEP services as well as greater awareness by LEP people of their rights. Federally subsidized courts, hospitals, and schools have a federal legal obligation under Title VI to ensure that their LEP patients, customers, and clients, have meaningful access to the organizations' federally subsidized services by providing them with the effective language assistance that the law requires.

AMERICANS WITH DISABILITIES ACT

On July 26, 1990, when President George H.W. Bush signed the Americans with Disabilities Act ("ADA") into law, his words informed the import of the occasion: "Let the shameful walls of exclusion finally come tumbling down." For the past 20 years, this landmark law has afforded millions of disabled people the legal protections that enable them to enjoy the benefits of American life.

Indeed, the ADA prohibits discrimination on the basis of disability in employment, state and local government services, health care, public accommodations, commercial facilities, transportation, and telecommunications. The ADA also applies to the United States Congress. One of the clear purposes of the statute is to:

> ... provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.[xxiii]

To be protected by the ADA, a person must have a disability or have a relationship to an individual with a disability. The statute defines an individual with a disability as someone with a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is thought to have such an impairment.

In addition, Section 504 of the Rehabilitation Act of 1973[xxiv] prohibits disability discrimination by federal financial assistance recipients. Recipients of federal assistance who are found to have violated the Rehabilitation Act and engaged in disability discrimination can lose their federal funding. This obligation applies to "all of the operations" of federally assisted entities who receive any amount of federal financial assistance.[xxv] The mandates of Section 504 have been incorporated into the ADA.

Since its enactment, the ADA's wide-ranging reach has been felt by many institutions through voluntary compliance, lawsuits, and consent agreements with the U.S. Department of Justice, the federal agency charged with enforcing the law.

I. The ADA - The Basics

The ADA's primary coverage comes from three statutory sections.

The ADA's Title I requires employers with 15 or more employees to provide disabled workers with an equal opportunity to benefit from their employment-related opportunities. For example, Title I prohibits discrimination in recruitment, hiring, promotions, training, pay, and workplace social activities. It also restricts job interview questions about an applicant's disability before a job offer is made. Title I further mandates that employers make reasonable accommodations to the physical or mental limitations of disabled employees unless such accommodations would result in undue hardships to the employer.

People alleging employment-related violations of Title I must first seek relief from the U.S. Equal Employment Opportunity Commission (EEOC) by filing complaints within 180 days of the date of discrimination or within 300 days if they first file complaints with a state or local fair employment practices agency. Individuals may file suit in federal court only after receiving a right-to-sue letter from the EEOC.

Title II covers all activities of state and local governments and requires that disabled people have an equal opportunity to benefit from government programs, services, and activities.

> No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, a public entity, or be subjected to discrimination by any such government or public entity.[xxvi]

State and local governments must follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access to disabled people in inaccessible older buildings and communicate effectively with people who have hearing, vision, or speech disabilities. Facilities designed and constructed for occupancy after January 26, 1993 must be accessible to people with disabilities.[xxvii]

Government agencies are not required to make alterations that would result in undue financial and administrative burdens. However, they must still make "reasonable modifications" to their policies, practices, and procedures where necessary to avoid discrimination unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity they provide. Such modifications may include alterations to a facility's physical plant, such as the removal of physical barriers, and the provision of handicapped-accessible buses and other transport vehicles.

In addition, ADA-required modifications include providing auxiliary aids and services, such as assistive devices for the hearing and visually impaired, to afford disabled individuals the ability to have effective communications and thus afford them equal access to goods and services.

Title II also covers public transportation services, such as city buses, public rail transit, and public airports. Government transportation agencies must comply with requirements for accessibility in newly purchased vehicles, make good faith efforts to purchase or lease accessible used buses, remanufacture buses in an accessible manner, and, unless it would result in an undue burden, provide paratransit where they operate fixed-route bus or rail systems. Paratransit services pick-up and drop-off disabled individuals who are unable to use the regular transit system independently.

The ADA's Title III prohibits discrimination by places of public accommodation and commercial facilities against individuals with disabilities.

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.[xxviii]

Public accommodations are defined as private entities that own, lease, or operate places of public accommodation, such as hotels, restaurants, retail stores, movie theaters, private schools, convention centers, doctors' and lawyers' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, sports stadiums, and fitness clubs. Transportation services provided by private entities are also covered by Title III. Under Title III, DOJ may obtain civil penalties of up to $55,000 for the first violation and $110,000 for any subsequent violation.

Public accommodations must comply with nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment of disabled people. Part of this compliance is having public accommodations remove barriers in existing buildings where this can be accomplished without much difficulty or expense.

Federal regulations also require ADA training for employees and contractors for compliance with Titles II and III.[xxix]

Federal agencies have promulgated various regulations to implement the ADA. For example, the U.S. Department of Transportation has regulations concerning the purchase, use, and maintenance of machines capable of lifting wheelchairs onto public buses.[xxx]

In addition**,** DOJ has promulgated the ADA Standards for Accessible Design ("Standards").[xxxi] These Standards encompass literally hundreds of structural requirements for places of public accommodation and commercial facilities during "the design, construction, and alteration of such buildings."[xxxii] The Standards identify the features that must be accessible to disabled people under the ADA, how to make them accessible, the number of features that must be accessible, and provide the specific measurements, dimensions, and other technical information needed to make the features accessible. For example, The Standards specify the number of accessible parking spaces required relative to the total number of spaces in a parking lot or other parking facility,[xxxiii] the height of Braille-language information,[xxxiv] and the height of water flow from a public drinking fountain.[xxxv]

The Standards' specifications are mostly mandatory. Failure to abide by their requirements could constitute violations of the ADA.

The ADA requires covered entities to provide auxiliary aids to ensure effective communication with deaf and hard of hearing individuals as well as the visually impaired.[xxxvi] The ADA ensures that hearing impaired people not miss important information available to others through, for example, a public address system.[xxxvii] Auxiliary aids and services to provide such access must be

made available except where they constitute an undue burden or fundamentally alter the public entity's program.

The following DOJ regulation defines the term auxiliary aid and service comprehensively:

> [q]ualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.[xxxviii]

III. Recent ADA Court Decisions and the Role of Interpreters

A 2008 federal district court decision is instructive on the ADA's accessibility requirements for deaf and hard of hearing people. In a case of first impression concerning the provision of equal access by deaf and hard of hearing people to aural information broadcast at sports stadiums, the court held that the Washington Redskins professional football team had violated the ADA by not providing their hearing impaired fans with sufficient means to have the "full and equal" enjoyment of the team's accommodations. *Feldman v. Pro Football, Inc.,* 579 F. Supp 2d. 697 (D. Md., 2008).

The Redskins' stadium is a place of "public accommodation" and is covered by Title III of the ADA, 42 U.S.C. §12182.

In pertinent part, the court held that the Redskins must provide deaf and hard of hearing fans with equal access to **all** aural information broadcast over the stadium's public address system.

> The Court is not persuaded by Defendants' argument that the law only requires them to provide assistive listening devices. Plaintiffs have represented, and Defendants do not disagree, that assistive listening devices are useless to these Plaintiffs. Thus, these devices cannot possibly ensure effective communication with Plaintiffs. The Court cannot ignore the broader mandates of the ADA and its implementing regulations.
>
> The plain language of Title III discredits Defendants' argument that additional auxiliary aids and services are unnecessary because the only integral information is the game play, which can be understood by deaf and hard of hearing fans simply by watching the game. Title III requires Defendants to provide "full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations" available at FedEx Field. Defendants provide more than a football game; they also provide public address announcements, advertisements, music, and other aural

> information to hearing fans at FedEx Field. Presumably Defendants provide this aural information to hearing fans for a reason. This aural information is a good, service, facility, privilege, advantage, or accommodation. Without some form of auxiliary aid or service, Plaintiffs would not have equal access to this information.
>
> On the face of the statute, the Court believes and concludes that Title III of the ADA requires Defendants to provide deaf and hard of hearing fans equal access to the aural information broadcast over the stadium bowl public address system at FedEx Field, which includes music with lyrics, play information, advertisements, referee calls, safety/emergency information, and other announcements.[xxxix]

By its terms, Title III has different requirements for covered entities than Title II. For example, Title III states that:

> No individual shall be discriminated against on the basis of disability in the full and **equal enjoyment** of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation... (Emphasis added)

By contrast, Title II states:

> No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity...

Title II does not include Title II's "equal enjoyment" language. However, the court's reasoning in this case informs the larger issue of making *all* public aural communications accessible to deaf and hearing impaired patrons of places of public accommodation and state and local government agencies.[xl] Title II's prohibition against discrimination in "...services, programs, or activities of a public entity..." is broad enough to encompass programming provided by a public agency, even programming provided, for example, by a television program that is shown by the government agency.

Also in 2008, there were several developments concerning healthcare providers' compliance with the ADA that should resonate with interpreters. These cases demonstrate the importance of an overall ADA-compliance strategy and the perils of violating this powerful civil rights mandate.

Concord Hospital (NH) entered into a consent agreement with the U.S. Department of Justice, agreed to pay $100,000 in a settlement with six hearing impaired people, agreed to change hospital procedures to accommodate people with hearing disabilities, and subjected itself to DOJ supervision.[xli]

The six complainants alleged that the hospital failed to provide them with appropriate services, such as sign language interpreters, to communicate with healthcare professionals and instead they had to use legally inadequate means to communicate.

Concord Hospital is also required to develop and adopt a detailed ADA compliance plan. The plan, for example, mandates that the hospital enter into a contract with a company that can provide qualified sign language interpreters within an hour of contact in at least 80 percent of situations.[xlii]

In October 2008, a New Jersey jury awarded $400,000 to a hearing impaired patient who sued her physician for failing to provide her with an interpreter. The patient alleged that the physician declined her requests for an interpreter. Eventually, the patient claimed, the doctor suggested that she see another physician. She sued under the ADA and New Jersey state anti-discrimination law. As reported in the October 17, 2008 **New Jersey Law Journal**, plaintiff's lawyer added that malpractice insurance does not typically cover court awards for civil rights violations.

In *Boyer v. Tift County Hospital Authority*, a federal district court in Georgia denied defendant hospital's motion to dismiss in this case alleging ADA Title II discrimination.[xliii] The court also refused to dismiss plaintiff's claim for intentional infliction of emotional distress.

The court found that the public hospital did not provide plaintiff, who is deaf, with an interpreter when she requested one. Defendant did not provide plaintiff with an interpreter for approximately one month after she entered the hospital. The court held:

> Both parties present evidence that Plaintiff's son, Lamar, contacted [Defendant] to request a certified sign language interpreter. This contravenes Defendant's assertion that it was not on notice that Plaintiff desired the services of an interpreter. This case is replete with evidence that Plaintiff desired a certified interpreter. Plaintiff's son inquired multiple times [about an interpreter].... Noticeably absent from Defendant's argument in support of effective communication is any mention of the interpreters it did attempt to bring in.
>
> In essence, Defendant's argument can only be then that it complied with Title II of the ADA and the supporting regulations' mandate of effective communication because a deaf patient consented to the procedures she underwent at the hospital. Defendant cites the availability of Plaintiff's children to act as interpreters, and Plaintiff's ability to communicate through writing messages and reading lips. The Court disagrees with Defendant's assessment.[xliv]

The ADA, with its many regulations, presents myriad compliance pitfalls for unsuspecting organizations, including the prospect of losing federal funding and being found monetarily

liable by DOJ or a court. From having the requisite number of accessible parking spaces, to the height of public water fountains, to healthcare providers' provision of interpreters for deaf and hard of hearing patients, the ADA will continue to require organizations' ongoing familiarity with its various mandates.

U.S. FEDERAL TRADE COMMISSION V. INTERNATIONAL ASSOCIATION OF CONFERENCE INTERPRETERS

In 1997, The Federal Trade Commission (FTC) issued an opinion concerning the policies and practices of the International Association of Conference Interpreters (known by its French acronym AIIC). The FTC determined that AIIC had violated federal law by "adopting and enforcing rules that govern how member [interpreters] compete."[xlv] In the same opinion, the FTC decided that AIIC's policies and rules concerning workplace standards and working conditions did not violate U.S. antitrust laws and did not constitute unlawful price fixing as examined by the FTC. While the FTC criticized AIIC's illegal, anticompetitive price-based policies, the FTC upheld AIIC's non-price rules and procedures concerning interpreters' working conditions.

The FTC is a federal agency that regulates anti-competitive commercial activity, price fixing, and restraints of trade as defined by federal law, such as the Federal Trade Commission Act[xlvi] and the Sherman Antitrust Act.[xlvii]

AIIC is a voluntary association of professional conference interpreters from more than 98 countries. AIIC is based in Geneva, Switzerland and in 2010, had 2,932 worldwide members, 164 of whom lived in the United States.

As the FTC found:

> AIIC members individually arrange their jobs and have complete discretion to which jobs they will take and which they will decline.[xlviii]

Federal law attempts to level the playing field for businesses and individuals by requiring them to compete fairly. An agreement, or conspiracy, among competitors, especially large or influential sellers of a service or product, to charge one price has insidious consequences. Such an agreement can effectively corner the market for these conspirators by making it difficult, if not impossible, for consumers to shop for better prices. Federal law intends to encourage that prices are set by the forces of supply and demand, and not by the conspiracy of producers and sellers of products to fix their prices and to limit how their products are available for purchase.

Indeed, agreements, regulations, practices, and standards that eliminate price competition among companies or individuals, such as interpreters, are *per se* violations of U.S. antitrust laws. [xlix] *Per se* treatment of such agreements, regulations, practices, and standards means that they are legally considered to be so harmful to competition, that they are treated as automatically illegal "... without further examination of the particular circumstances under which they arise of the effects thereof..."[l]

The nature of AIIC and its relationship to its members is similar to that of virtually all interpreter associations in the United States, such as the International Medical Interpreters Association,

Nebraska Association of Translators and Interpreters, Upper Midwest Translators and Interpreters Association, American Translators Association, and National Association of Judiciary Interpreters and Translators. These organizations are bound by the same federal laws as AIIC, as the laws apply to establishing the prices and fees charged by their members for their professional services. Indeed, the FTC decision should inform all interpreters and their associations about what is permissible under federal law concerning discussions of prices and fees and any standards that they establish, which relate to pricing for interpreter services.

The FTC found that for more than 40 years, AIIC had established and enforced rules regulating the employment of its members and members' competition among themselves for conference interpretation opportunities. These rules, in part, governed:

- length of the working day;
- number of interpreters to be hired at a conference;
- ability of out-of-town and staff interpreters to compete with local freelance interpreters;
- payment for travel expenses and per diems; and
- minimum daily pay rates.

It is this last AIIC rule, regulating and establishing rates of payment for conference interpreters, that was among the most legally problematic to the FTC. Federal antitrust and fair competition law prohibits price fixing and the consequent elimination of price competition.

In its 1997 opinion, the FTC decided:

> Agreements between AIIC and its U.S. members to promulgate and follow AIIC's rates constitute illegal agreements on price and are classic *per se* antitrust violations. It is irrelevant whether AIIC's rates are reasonable or unreasonable...
>
> Although the core agreement is the one among AIIC's members not to charge less than an agreed-upon daily rate, the *per se* rule against price fixing is far broader. The *per se* rule embraces **ANY** agreement that has a substantial impact on price, whether or not the agreement directly specifies prices to be charged.[li] [Emphasis Added]

The FTC's opinion discusses many illegal, anti-competitive practices by AIIC. Indeed, the Commission found that AIIC engaged in a broad range of illegal price fixing and market allocating activities.

AIIC price-based standards also governed contractual provisions for reimbursement of interpreters' travel expenses, fees to be charged for cancellation of a conference for which an interpreter had been retained, interpreters' pro bono work, and commissions.[lii] All of these standards constituted, according to the FTC, "...restraints that prevented price competition on

virtually all aspects of conference interpreting... These restraints constitute a comprehensive price-fixing scheme and, individually and collectively, are *per se* unlawful. "[liii]

The FTC rejected AIIC's contention that antitrust law's labor exemption applied to its various standards and rules and thus immunized it from liability. Federal law exempts union conduct and certain labor agreements resulting from the collective bargaining process from antirust liability.[liv] Simply put, the FTC found that AIIC, like similar interpreter organizations, is an association of self-competing professional interpreters and not a bona fide labor organization.

In its opinion and order, the FTC barred AIIC from several conspiratorial acts, including creating or suggesting adherence to a fee schedule for interpreting, suggesting or recommending that interpreters charge a specific fee, prohibiting or interfering with price competition, and participating in any agreement to mandate payment for travel expenses. [lv]

Concerning AIIC's workplace and interpreter working conditions regulations, the FTC admonished that the U.S. Supreme Court has been reluctant to expand the *per se*, or automatic liability, rule, to encompass professional associations' "codes of conduct, " such as AIIC's non-price workplace rules.[lvi] Instead of the *per se* approach to codes of conduct, the FTC applied the so-called rule of reason analysis. Such an approach requires the decision maker to examine any challenged practices according to the totality of the relevant circumstances in order to determine their legality.[lvii]

AIIC had promulgated rules, for example, concerning the length of an interpreter's day, interpreter team size for consecutive, whispered, and simultaneous interpretation, prohibiting members from simultaneous interpretation without the use of a booth in most situations, requiring members to declare a single professional address and maintain this address for at least 6 months, advertisements for interpreter services, and interpreters' use of trade names. [lviii] The FTC, applying the rule of reason standards, found these rules to be legal.

It is axiomatic that the FTC's AIIC decision has substantial consequences for interpreters and interpreter associations. Agreements to fix or establish prices for interpretation and translation and order the marketplace for interpreter services are *per se* violations of federal law.

However, the FTC also upheld interpreter associations' ability to regulate how their members conduct their business and how they should be treated while interpreting. While this part of the decision is noteworthy, it is also important to understand that a federal court could interpret antitrust law differently than the FTC did concerning AIIC's non-price rules and procedures. The complex distinction between *per se* and rule of reason analysis accentuates the importance of interpreters and their associations seeking competent legal advice about what antitrust law does and does not prohibit.

The FTC's decision should empower interpreters to obtain competent legal advice about, for example, what they can discuss online, by email or in a listserv posting, about their professional rates and fees. Merely inquiring what an interpreter charges for his services may not be illegal

and also may not be prohibited by the FTC's decision. Legal difficulties can arise if such discussions go beyond mere inquiries to those wondering about standardization of fees and rates for interpreter services. While interpreters, just as any professionals, should receive reasonable compensation for their services, they cannot act together, individually or as members of interpreter associations, to fix the prices they should receive and their working conditions. These are issues for the free market to determine and for interpreters to achieve by themselves, either as freelance business people or as employees of larger organizations.

Interpreters and interpreter associations should be mindful of NOT doing what the FTC determined AIIC had done.

> AIIC and the U.S. Region adopted a wide variety of rules that affected and eliminated price competition among AIIC members in the United States. Since AIIC was founded in 1953, it has established binding rules governing its conference interpreter members, including rules concerning the remuneration charged.[lix]

CURRENT ISSUES OF INTEREST TO THE INTERPRETING PROFESSION

The interpreting profession faces many challenges and issues, perhaps as never before. As awareness of the importance of interpreting, and the legal mandates that support it, continue to grow, interpreters will face unprecedented opportunities as well as new risks. The following sections outline some of these challenges, issues, opportunities, and risks.

I. Mohammed Yousry Case

On February 10, 2005, a federal jury in New York City convicted Mohammed Yousry, an Arabic interpreter/translator, of providing material aid to terrorism and conspiring to deceive the U.S. government. Mr. Yousry acted on the instructions of Attorney Lynne Stewart and translated messages from Sheik Abdel Rahman, Stewart's client who is serving a life sentence in federal prison for conspiring to bomb New York City landmarks. Stewart provided Rahman's translated messages to the international media and to Rahman's ostensible followers in Egypt.

By releasing these messages, Stewart violated a prison rule that restricted communications between certain inmates and the outside world. Stewart had signed a document agreeing to abide by this and other prison rules. Yousry had not signed such a document.

However, during Yousry's trial, jurors watched surveillance videotapes of Yousry, speaking Arabic, debating Sheik Rahman about Rahman's political views. Jurors also heard Stewart telling Yousry that they could get into trouble for what they were doing.[lx] In addition to Yousry's translation work for Stewart, he was also working on a doctoral dissertation about Rahman. Jurors apparently found the videotapes to be convincing evidence that Yousry's time with Rahman was devoted to more than translation and interpretation and suggested an understanding of Rahman's philosophy.

Although Yousry had not signed the prison document, prosecutors argued that he was nevertheless aware of prison restrictions and knew that what he did was wrong.[lxi] The jury agreed with the prosecution and convicted Yousry. Stewart was also convicted of assisting terrorism. Stewart was sentenced to 28 months in prison. Yousry was sentenced to 20 months in prison.[lxii]

Yousry's conviction and sentencing upset many in the interpreter community. Interestingly, the boards of the American Translators Association and National Association of Judiciary Interpreters and Translators took "no position about the guilt or innocence of individuals involved in [the] criminal case."[lxiii] Instead, these organizations expressed concern about interpreters following prescribed ethical rules and procedures. The associations stated:

> Judiciary interpreters and translators are required to limit their scope of practice to providing interpreting and translating services only. When interpreters step out of that prescribed role, they not only expose themselves to serious personal risk; such deviations also may be greatly detrimental to the proper

> administration of justice, leading to an inaccurate court record, reversal of cases, unfair convictions, or acquittal of the guilty.[lxiv]

The Yousry case raises many issues for the interpreting profession. One of the most prominent is that as the visibility of interpreters and their roles continue to increase, so too does scrutiny of their profession and their professional actions. With such scrutiny comes the importance of understanding the situations in which interpreters are called upon to provide professional services and the potential ramifications of their actions. Such scrutiny also emphasizes the importance of interpreters having well-written contracts that clearly outline their professional duties and responsibilities for each assignment they encounter and adequate errors and omissions malpractice insurance coverage to protect themselves against claims for not fulfilling their professional obligations.

II. Interpreter Accountability

An interpreter's stock in trade is his/her ability to convey information from one language to another. It is axiomatic that interpreters are expected to interpret information correctly, using appropriate language and terminology. Such expectations place a premium upon interpreters' abilities, language fluency, and familiarity with sophisticated terminology concerning medicine, law enforcement, judicial proceedings, education, or myriad other specialty areas.

Recently, some interpreters have been taken to task for their ostensible inability to perform their interpreting/translating functions correctly. For example, on July 9, 2009, the Franklin County (OH) Municipal Court fired one of its two Spanish interpreters. According to the *Columbus-Dispatch*, the court fired the interpreter because he could not properly interpret legal terms.[lxv] Apparently, the interpreter, although he claimed to be bilingual in English and Spanish, had not mastered legal vocabulary in both languages. Of course, the interpreter's failure to interpret legal terminology accurately calls into question the validity of guilty pleas and sentences in cases where he participated.

However, the fact that errors were made in specific interpretations and translations is not enough, for example, to overturn a criminal sentence or invalidate a patient's giving informed consent to a surgical procedure. Courts typically look to the gravity of the error to determine whether it is serious enough to affect the legal rights of LEP people for whom the language assistance was provided.

A recent Nevada Supreme Court case illustrates this point.[lxvi] In the *Ouanbengboune* case, the Court found that the interpreter had made translation mistakes in interpreting for the defendant. The Nevada Supreme Court decided that some of these errors "...fundamentally altered the context of [Defendant's] testimony."[lxvii] Defendant was convicted of first-degree murder. Nevertheless, the Court decided that since there was overwhelming evidence of defendant's guilt to warrant a conviction, the interpreter's mistakes were not serious enough to prejudice the defendant and warrant a new trial.

However, while the interpreter's mistakes did not justify a new trial in Nevada, other states may have different rules about what interpreter inaccuracies are serious enough to require a new trial. In addition, although the Nevada interpreter's errors did not result in a miscarriage of justice, his mistakes could have a prosaic consequence - he could be fired as a result of the mistakes and lose the opportunity to interpret in other cases.

These cases underscore the importance of interpreters' fluency when it comes to language and relevant terminology. Interpreter continuing education is one way for interpreters to keep their skills sharp. Interpreter certification is another method that can ostensibly provide employers with a seal of approval that 'certified' interpreters have been deemed qualified to provide effective language assistance.

There are several certification systems in place. The Consortium for State Court Interpretation has 40 member states, as of June 11, 2009 according to the National Center for State Courts.[lxviii] Many states, such as Washington and Minnesota, have expansive certification programs for court interpreters.

National certification exists in sign language interpreting and there are efforts underway for national interpreter certification in other interpreting sectors. Such efforts involve many different organizations and individuals and are in various stages of evolution. While such efforts are laudatory and can serve many useful purposes, interpreter certification is neither required by federal law nor is it likely to be. The federal government reserves to the states the right, if they choose, to mandate that interpreters be certified by a given entity in order to practice their profession.

Some interpreters have objected to certain local certification efforts, claiming they are discriminatory and exclusionary. For example, some California court interpreters claimed in 2010 that a local certification process prevented them from securing jobs to interpret from English into Mandarin Chinese, Russian, and Armenian.[lxix] The interpreters also complained about what they alleged to be a closed, secret process concerning certification.

This issue points up additional controversies surrounding any certification process. Some individuals, regardless of professed skill, may be unable to pass certain tests. Certification tests may also be unreasonably difficult to pass, resulting in a steep decline of interpreters who are considered qualified to provide effective language assistance. Any certification, like any testing process, is fraught with such delicate issues.

III. State and Federal Issues

In recent years several states have enacted legislation that directly affects interpreters. This section will mention a few of these initiatives and is not intended to be inclusive or exhaustive of all such efforts at the state level.

Minnesota announced, in 2010, the certification of the United States' first court certified Somali language interpreter. This achievement illustrates the continued certification effort and demonstrates programs to broaden language testing to encompass many different languages.

On June 19, 2009, Texas' governor enacted legislation that established a State Committee to oversee Healthcare Interpreter Qualifications. Multiple stakeholder groups would be represented on this committee, which will have the responsibility of bringing effective healthcare related language assistance to Texas' LEP population. A similar committee was established by the South Dakota Judiciary in 2009.

In 2010, Washington State saw the passage of two bills that concern interpreters.

On March 24, 2010, Washington's governor signed into law House Bill 2518. This law effectively ends the practice in Washington of having court interpreters sign so-called permanent oaths, obviating their having to take an oath each time they interpreted in the courtroom. Under the new law, the Washington Administrative Office of the Courts will be responsible for obtaining signed and sworn oaths of all certified and registered interpreters and then updating them every two years.

Washington's former practice of permanent oaths effectively varied from court to court and judge to judge. Trial court judges sought legislation concerning this practice after an unpublished appellate court decision indicated that the practice of taking permanent oaths could violate Washington law.

On April 1, 2010, Washington enacted Senate Bill 6726. This new law, for the first time in Washington, allows freelance interpreters who interpret for the Washington Department of Social and Health Services to form a union and bargain collectively. As of May 1, 2010, the interpreters had not formed a union so no bargaining had occurred. This law has the potential to increase interpreter pay and improve their working conditions. It could be a model for similar actions in other states.

In Washington, D.C. many bills and proposals that could affect the interpreting profession are often introduced. Here are two recent examples of such legislation.

In the past decade, there have been several efforts to make English the national language of the United States. For example, in 2009, H.R. 997 was introduced with more than 100 co-sponsors. This bill, known as the English Language Unity Act of 2009, would require the United States to conduct most official business in English and would limit so-called routine government operations to English. To date, this bill has not been debated on the floor of the House of Representatives and no date has been set for such debate or for a vote on the bill.

Senator Kohl of Wisconsin sponsored a bill (S. 702) to create a state court interpreter grant program. This bill would provide financial assistance to states for developing and implementing

effective state court interpreter programs that include training, testing and certifying court interpreters. To date, this bill has not passed the Senate.

CONCLUSION

As this paper demonstrates, many state and federal laws and policies influence, govern, and affect the interpreting profession. As more organizations continue learning of various legal requirements concerning the provision of language assistance, interpreters will likely find themselves busier and more challenged than ever before.

However, increased awareness of and appreciation for interpreters brings a concomitant focus on how interpreters do their jobs and how they conduct themselves. Myriad laws and policies govern interpreters, as AIIC discovered with the FTC, for example.

In his career, the author has advised interpreters on various laws that effect their profession and their responsibilities. As this paper hopefully suggests, the stakes are too high and the consequences too severe for interpreters and their employers to make inaccurate legal assumptions. As the interpreting profession continues evolving, the resultant challenges and rewards will undoubtedly increase. As they do, interpreters would be wise to take necessary precautions for themselves, their clients, their organizations, and their employers.

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[i] Comments of Senator Hubert H. Humphrey, 110 Congressional Record 6544
[ii] 42 U.S.C. §2000d-1
i. Comments of Senator Hubert H. Humphrey, 110 Congressional Record 6544
ii. 42 U.S.C. §2000d-1
[iii] 28 CFR 42.104(b)(2)
[iv] 42 U.S.C. § 2000d-1
[v] *Cannon v. University of Chicago,* 441 U.S. 677 (1979)
[vi] 414 U.S. 563 (1974)
[vii] 67 Federal Register 41455

[viii] 67 Federal Register at 41459

[ix] 67 Federal Register at 41464
[x] 532 U.S. 275 (2001)
[xi] 532 U.S. 275, 280-281
[xii] Id
[xiii] Id at 288-290
[xiv] Id
[xv] *Arlington Heights v. Metropolitan Housing Development Co.,* 429 U.S. 252, 266-268 (1977)
[xvi] *Arlington Heights,* 429 U.S. at 266
[xvii] *U.S. v. Yonkers Board of Education,* 837 F. 2d 1181 (2d Cir., 1987), cert. denied 510 U.S. 1055 (1994)
[xviii] *Almendares et al., v. Palmer et al.,* 284 F. Supp. 2d 799 (N.D. Ohio, 2003)
[xix] Id. at 800
[xx] *Almendares,* 284 F. Supp 2d at 807
[xxi] Id.
[xxii] *Almendares,* 284 F. Supp 2d at 808
[xxiii] 42 U.S.C. §12101(b)(2)

[xxiv] 29 U.S.C. §794
[xxv] Civil Rights Restoration Act of 1987 (P.L. 100-259, 102 Stat. 28)
[xxvi] 42 U.S.C.§12132
[xxvii] 49 C.F.R.§37.41
[xxviii] 42 U.S.C.§12182(a)
[xxix] For example, see: 49 C.F.R. §37.173
[xxx] 49 C.F.R. §§37.3, 37.165
[xxxi] Appendix A of Title 28, Code of Federal Regulations, Part 36 (abbreviated as 28 CFR pt. 36 app. A)
[xxxii] 28 C.F.R. Pt. 36 App.A§1
[xxxiii] 28 C.F.R. Pt. 36, App. A, §4.1.2(5)

[xxxiv] 28 C.F.R. Part 36, Appendix A §4.30.4., 4.10.5

[xxxv] 28 C.F.R. Part 36, Appendix A**§**4.15.3
[xxxvi] See eg.: 28 C.F.R. §35.160
[xxxvii] See eg.: 28 C.F.R §35.101 et seq.
[xxxviii] 28 C.F.R.§ 35.104

[xxxix] 579 F. Supp 2d. at 708
[xl] 28 C.F.R. §35.160
[xli] Hospital settles with deaf patients on communication, **Concord Monitor,** September 27, 2008
[xlii] A similar consent agreement between DOJ and HealthEast can be found at http://www.ada.gov/healtheast.htm. HealthEast operates a system of medical facilities. One of its facilities, St. Joseph's Hospital in St. Paul, Minnesota, is the subject of this agreement for ADA violations.
[xliii] 2008 WL 2986283 (M.D. Ga., 2008)
[xliv] id - Slip Copy at page 5
[xlv] In the Matter of: International Association of Conference Interpreters and United States Region of the International Association of Conference Interpreters, before the U.S. Federal Trade Commission, Docket No. 9270, at p. 1:
[xlvi] 15 U.S.C. §41-58
[xlvii] 15 U.S.C. § 1
[xlviii] Id. at 14
[xlix] Id at 17
[l] Id. at 16
[li] Id. at 26
[lii] Id. at 21-25
[liii] Id. at 26
[liv] Id. at 13
[lv] In the Matter of: International Association of Conference Interpreters and United States Region of the International Association of Conference Interpreters, before the U.S. Federal Trade Commission, Docket No. 9270
[lvi] Id at 31
[lvii] Id at 32
[lviii] Id pp. 37-45. For the FTC's legal discussion and application of rule of reason analysis, see: pp. 31-37.
[lix] Id at 17
[lx] Washington Post, January 15, 2006
[lxi] New York Times, August 7, 2005
[lxii] New York Times, November 20, 2009
[lxiii] Statement on the Mohammed Yousry case by the boards of the American Translators Association and National Association of Judiciary Interpreters and Translators, March 1, 2005
[lxiv] Id
[lxv] Columbus Dispatch, July 31, 2009
[lxvi] Vannasone Ouanbengboune v. The State of Nevada, Nevada Supreme Court, Case No. 44763, December 3, 2009
[lxvii] Id at 16
[lxviii] http://www.ncsconline.org/D_Research/CourtInterp/Res_CtInte_ConsortMemberStatesPubNove07.pdf
[lxix] San Diego Union-Tribune, April 5, 2010