

## **Logistics of Litigation in the Age of COVID-19 and Beyond**

### **Prisoners' Advocates Conference 2021 – Continuing Legal Education**

March 24, 2021, 12pm CT-1:30pm CT

- I.** Introductions: 12:00-12:05
- II.** Accessibility for Individuals who Are Deaf or Hard of Hearing: 12:05-12:15
- III.** Remote Deposition Considerations: 12:15-12:35
  - A.** Preparing with Prisoner Plaintiffs and/or Witnesses
  - B.** Technology
  - C.** Third-party or Uncontrolled Witnesses
  - D.** From the Client's Perspective
- IV.** Court Hearings: 12:35-12:50
  - A.** Remote Hearings
  - B.** Live Hearings
- V.** Ethical Consequences of COVID: 12:50-1:00
- VI.** Silver Linings: 1:00-1:10
- VII.** Questions & Answers: 1:10-12:30

### **Speaker Bios**

#### **Amy E. Breihan**

Amy Breihan is a co-Director with the Missouri office of the Roderick & Solange MacArthur Justice Center (RSMJC), a non-profit civil rights law firm that fights for racial, gender, social, and economic justice through litigation on behalf of people involved in the carceral and criminal legal systems. Amy joined RSMJC as a staff attorney when it opened a new Missouri office in 2016. Prior to joining RSMJC, Amy was a trial attorney with the law firm of Bryan Cave Leighton Paisner, in both their Chicago and St. Louis offices. She has extensive trial, appellate, and mediation experience and has prioritized public interest work throughout her career.

Since 2012, Amy has been part of a team of advocates helping to lead efforts to seek second-chance sentences for Missouri youth sentenced to die behind bars. For the last several

years, she has both provided direct representation to those clients and worked for changes in the law to end juvenile life without parole sentences. That work included state and federal habeas litigation, as well as a successful class action culminating in a systemic overhaul of the parole process for juvenile lifers. Under the reformed process, juvenile parole hearings have gone from an 86% denial rate to a 100% grant rate. Amy is the recipient of the 2020 ABA's Livingston Hall Juvenile Justice Award for her work on behalf of juvenile lifers. In addition, she has played a pivotal part in state-wide litigation related to, among other things: inadequate treatment for inmates with chronic Hepatitis C; the parole revocation process that impacts thousands of Missouri parolees; Missouri's chronically under-resourced and over-burdened public defender system; and the protection of individuals' First Amendment rights, especially the right to protest against police violence and racial injustice.

Amy is a 2010 graduate of Northwestern Pritzker School of Law. While in law school, Amy served as a student attorney with the Bluhm Legal Clinic's Center on Wrongful Convictions, where she helped represent clients in post-conviction, actual innocence cases. Amy is a proud alumna of Grinnell College, where she graduated with a bachelor's degree in economics in 2006. She lives in St. Louis with her partner, three young children, and menagerie of animals.

#### Michael Freedman

Michael Freedman, senior counsel at Rosen Bien Galvan & Grunfeld LLP ("RBGG"), focuses his practice on civil rights litigation with an emphasis on prisoners' rights litigation. He has successfully litigated class action cases involving the rights of incarcerated people with mental illness, disabilities, and serious medical conditions at jails and prisons throughout California. Most recently, as a remedy for widespread abuses of people with disabilities incarcerated by the California Department of Corrections and Rehabilitation ("CDCR"), Mr. Freedman obtained orders requiring CDCR, at six of its thirty-five prisons, to install fixed surveillance cameras, implement body-worn cameras, reform the staff misconduct investigation and discipline process, and increase supervisory staffing.

Mr. Freedman also has substantial experience with attorneys' fees matters and with complex wage-and-hour, independent contractor misclassification, and discrimination class actions on behalf of workers, including challenging arbitration clauses and class action waivers.

Mr. Freedman is a graduate of Stanford Law School and Claremont McKenna College. Prior to joining RBGG, he served as a law clerk to the Honorable Marilyn H. Patel of the United States District Court for the Northern District of California and to the Honorable Reginald C. Lindsay of the United States District Court for the District of Massachusetts. He has been named a Rising Star by Northern California Super Lawyers from 2013-2020.

#### Charles Johnson

Charles Johnson is a plaintiff in the case of Johnson v. City of Chicago et al., currently proceeding in the Northern District of Illinois federal court. The case is now in discovery and Mr. Johnson will be deposed remotely. With three other teenagers, Mr. Johnson was falsely arrested by Chicago police at age 19 for a double murder he did not commit; he was wrongfully

convicted and served approximately 20 years in the Illinois Department of Corrections before being exonerated. Mr. Johnson was represented in his post-conviction proceedings by the Center on Wrongful Convictions at Northwestern Pritzker School of Law and is currently represented by Loevy & Loevy and the MacArthur Justice Center in his civil suit. Mr. Johnson is a facilities coordinator at Kirkland and Ellis, LLP, and an advocate for criminal legal system reform. He resides in Chicago with his family.

#### June Prusak

June Prusak is a native user of American Sign Language and second generation Deaf. In 1993, She earned her BA degree in Therapeutic Recreation from Gallaudet University. Prior to becoming a Certified Deaf Interpreter, she worked as a Youth Program Coordinator, where she worked with Deaf and Hard of Hearing children. In 2005, she obtained her Certified Deaf Interpreter credential. In addition, she obtained her Conditional Legal Interpreting Permit-Relay in 2009. Currently, she works as a staff CDI and Coordinator at the Circuit Court of Cook County. June has more than 400 hours of specialized legal interpreter training and has participated in the National Consortium of Interpreter Education Center's Legal Interpreters' Train the Trainers program. In her spare time, she enjoys being outdoors and being one with nature!

#### Ann Wohlmuth

Ann Wohlmuth began her interpreting career in 2001 with a degree in ASL <> English Interpretation and significant experience in the legal field. After working in a variety of settings, she pursued graduate work in the field of legal sign language interpretation and began working for the Circuit Court of Cook County in 2007. With more than 700 hours of legal interpreter training and over 14 years of interpreting experience as a full-time interpreter in court and court-annexed settings, she became the Supervisor of Deaf/Hard of Hearing Access (DHHA) in the Circuit Court of Cook County in 2014 – the only position of its kind across the US. In 2015, Ms. Wohlmuth was appointed to the CBA's Pro-Se Advisory Committee and invited to join the Council for Language Access Coordinators' ASL Legal Credentialing Workgroup in 2017. Ms. Wohlmuth is involved with police reform as it relates to the deaf community and frequently presents on deaf culture and the courts across the nation to improve understanding and access to the justice system.

**CIRCUIT COURT OF COOK COUNTY  
OFFICE OF ACCESSIBILITY & EDUCATION OUTREACH  
DEAF / HARD OF HEARING ACCESS**

**ZOOM INSTRUCTIONS: FOR SIGN LANGUAGE INTERPRETERS**

**BEFORE JOINING ZOOM: CHI-CDI Team**

- DHHA recommends connecting with your CDI partner by a second device (if possible) prior to joining the court call.

*DHHA finds it helpful to connect on a secondary device (cellphone or tablet - FT, VP, Duo, etc.) and set the camera at a downward or side angle placed near our Zoom camera. We set the angles so CDI and CHI can have private conversations with each other out of view of the Zoom courtroom and easily spot a signal for communication in peripheral vision. Do what works for you and your team.*

- Check camera angles and work out prep for how to work together.

*The pace of the court call seems to move very quickly and virtual courtrooms are new to everyone. As a result, there is a lot of stress with technology and the backlog of old cases and incoming new cases. Get as much figured out with your partner as you can before joining the room – you may be sitting for an hour and then rapidly begin. Be ready to think rather quickly. We know that you know what to do, but if all else fails, give anyone our DHHA contact info for “more assistance, clarification of procedures,” etc.*

- Decide who will take the lead to explain roles or procedures and make requests to the court prior to beginning to interpret.
- Keep this document open on computer for quick reference and to cut and paste DHHA Contact info (*below*) to send to DDBHH person and Interpreter Oath (*below*) for the courtroom if needed.

**Connecting to Zoom...**

- “Waiting for host to join...” = no judge yet, the room is not open, or the Zoom info is wrong. Contact DHHA.
- “Waiting Room,” = You are in the right place and please be patient. Text DHHA for help if needed.

**BEFORE THE COURT CALL STARTS**

- Sign into Zoom

Please name yourself as **“ASL/CDI Interpreter – initials or name.”**

*If you are already signed in, you can right click on your picture and “Rename” for the session.*

**\*\*\* SOME COURTROOMS ARE STREAMED LIVE ON YOUTUBE. \*\*\***

- Video Privacy

You may choose to “Stop Video” until your case is called or when the courtroom is discussing your case.

*Activating your video will help court staff remember that you are involved in the case. You may need to answer questions or comment. Participate proactively with discussions.*

- Introduce Yourself to the Courtroom and Request Break Out Room

In the Zoom Chat, type to “Everyone”, “**ASL/CDI Interpreter on the case of \_\_\_\_\_, Case # \_\_\_\_\_.** I will need a few minutes in a Break Out Room to meet briefly with \_\_\_\_\_ (and their attorney) before proceeding.”

- Secure Break-Out Room

If the case is called before being put in a Break Out Room, it is strongly advisable to again quickly and respectfully ask, “**Excuse me, Judge...May I respectfully request a Break Out Room for a few minutes with \_\_\_\_\_ and their attorney \_\_\_\_\_?**”

SUPPORT:

- “**To establish effective communication and proactively troubleshoot some of the challenges when using sign language in a virtual courtroom.**”
- “**I was given a set of recommended protocols from the Office of the Chief Judge’s Deaf/Hard of Hearing Access Team to minimize potential disruptions during the proceedings.**”

## **BREAK OUT ROOM: INSTRUCTIONS TO DDBHH CONSUMER**

- Communication Assessment – Establish Effective Communication

Occasionally people are still cuffed when brought to the camera. If cuffs are not removed, inform the court, “**Your Honor, In order to be able to communicate with \_\_\_\_\_, I will need the hand cuffs removed, please.**”

- Set Quick Signals

- **Raise 1 Hand:** Request DDBHH consumer to raise their hand before making a statement/asking a question so the interpreter can get hold space during the proceedings and focus on the DDBHH consumer picture. This signal will help with turn-taking and ensure all comments are interpreted.

*When interpreters are working and watching their video output frame, it is possible to miss quick comments from the DDBHH consumer.*

- “**Time Out**”: 2-handed “T” sign as in “Time Out” to signal for any pauses needed during the proceedings for video problems. Examples of pauses could be a slow or freezing video. This signal is very helpful to immediately inform the court of bad video connection and to pause.

- Explain the Option to “Pin Video”

*The DDBHH individual may wish to make the screen of the interpreter stay maximized. In order to keep the interpreter as the largest picture, the viewer, should select “Pin Video” (instructions below). If a CDI is involved, the viewer may wish to pin the video of the CDI to minimize visual distractions. This is an option that some individuals prefer, but not all.*

- On a computer, in Gallery View, hover the cursor over the screen of the interpreter. In the top right corner, click on “...”, and scroll down to find “Pin Video”.
  - On a cell phone, double tap on the interpreter’s picture.
  - If the interpreter’s video is pinned by a DDBHH person (A), the interpreter will need to work out how to handle comments by a second DDBHH person (B) that may not be seen by (A). For example, is it preferable to all parties to switch out of pinned-video mode for this segment or is it preferable for the interpreter to copy sign the responses?
- Inform the DDBHH individual that the video may be slower than their hands and to be mindful of signing in the video frame.
  - Copy and Paste DHHA Contact Info into Chat Box for DDBHH consumer:

**DEAF / HARD OF HEARING ACCESS**  
**VP: (312) 603-9187**  
**Text Only: June Prusak (312) 502-0996**  
**Cell/Text: Ann Wohlmuth (312) 919-1452**  
**Email: [OCJ.DeafHardofHearingAccess@CookCountyIL.gov](mailto:OCJ.DeafHardofHearingAccess@CookCountyIL.gov)**

## **COURTROOM**

- Oath for CHI v. CDI

*Be ready to give your oath to the judge/clerk if necessary.*

### **CCCC STANDARD INTERPRETER OATH:**

First: Do you solemnly swear or affirm to interpret from English to sign language and sign language to English to the best of your ability?

Second: Do you solemnly swear or affirm to interpret from sign language to visual gestural communication and from visual gestural communication to sign language to the best of your ability?

*If all interpreters are asked to raise their hands to be sworn in at the same time, we often suggest, “Judge, if you would please swear in the certified hearing interpreter first before administering the oath to the Certified Deaf Interpreter.”*

*After the CHI is sworn in, I suggest the oath for the CDI before it is requested by saying, “I do. And your honor, the oath for the Certified Deaf Interpreter is a little different. They will be interpreting from \_\_\_\_\_ to \_\_\_\_\_. ” CDIs may choose their own wording for the oath.*

- Pin Video?

*Consider if you would like to Pin the Video of either your CDI partner or the DDBHH individual.*

- Use DeafBlind Interpreting Rules

- Identify both the speaker and the recipient of comments/questions.
- Always identify yourself as “Interpreter” when communicating to the court or making corrections to the interpretation.

*Remember, your video may be pinned, so you must identify “who” and “to whom.”*

- Monitor Video Output Frame

Ask CDI Partner to assist with watching all parties for hands being raised or “T” for video problems.

*It is easy to watch ourselves to monitor our video frame and check in on one DDBHH person, but miss a second DDBHH person’s comments.*

- Continuance Info

If you are following the case, when the next date is being discussed, request **“Your Honor, I was asked by Deaf / Hard of Hearing Access to confirm my availability for the next date on this case. May I have a moment to check my schedule?”**

Please confirm with the court if the next date will be on Zoom or on-site.

Please give DHHA a professional update with the next date ASAP.

**CIRCUIT COURT OF COOK COUNTY  
OFFICE OF ACCESSIBILITY & EDUCATION OUTREACH  
DEAF / HARD OF HEARING ACCESS**

**ZOOM: CART CAPTION ACCESS**

**HOST INSTRUCTIONS**

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Court participants who need an auxiliary aid for a hearing disability may request Communication Access RealTime Translation (CART) captions for effective communication under the Americans with Disabilities Act of 1990.

For more information on the court's responsibility to provide auxiliary aids and services for persons with disabilities, please contact the Court Disability Coordinator at 312.603.1915 or the Deaf / Hard of Hearing Access Team at (voice or text) 312.919.1452.

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**Background**

Individuals who are deaf or hard of hearing may request Assistive Listening Devices (ALDs), Communication Access RealTime Translation (CART) captions, or sign language interpreters to access court proceedings.

Assistive Listening Devices (ALDs) provide sound amplification for individuals with hearing loss. Because ALDs are not available for ZOOM court appearances, participants who typically request ALDs may now require captions to support their understanding of speech during the court proceedings. In particular, hard-of-hearing individuals who rely on residual hearing combined with lip-reading may now require captions as many people currently wear a mask that obscures their mouth.

CART captions are usually requested by deaf or hard-of-hearing individuals who prefer to rely on written English, rather than residual hearing or sign language for comprehension. CART may also be requested as an ADA accommodation by individuals who are not deaf or hard of hearing.

CART captioners have a different role and function than court reporters. CART is written live at a higher degree of accuracy than what may be produced by a court reporter during a court proceeding. CART does not produce a court transcript. CART functions only as an interpretive device. The Official Court Reporter assigned to the courtroom produces the official court record.

**For Immediate Assistance, please text DHHA Supervisor, Ann Wohlmuth, (312) 919-1452 or OCJ Technical Support.**

## INSTRUCTIONS TO EMBED CAPTIONS INTO ZOOM

### 1. **HOST: ZOOM Host must have captions enabled before the session starts.**

To enable captions on ZOOM, the Host of the meeting should view the [Account Settings](#). On the far left of the Account screen, select “[Settings](#)”.

Scroll down in “Settings” to “[In Meeting \(Advanced\)](#)” options. Find “[Closed Captioning](#)” and switch the toggle to the right so it turns blue.

**\*\* Account Settings cannot be viewed or changed after a ZOOM session has started. If captions are not enabled prior to the start of the Meeting Session, any participants who have already joined may need to “Leave Meeting” and rejoin the ZOOM session after Captions have been enabled by the Host or OCJ Tech Support.**

### 2. **HOST: Assign Captioner - “Assign a Participant to Type”**

If captions are enabled in the profile, the Host will be able to see a Closed Caption (CC) button at the bottom center of the ZOOM screen.

*If there is no Closed Caption button for the Host, please see Instruction #1 above.*

- Select - [CC Closed Caption button](#) – bottom center
- Click “[Assign a Participant to Type](#)”
- (In the pop-up window – list of participants) Find “[Captioner – \\_\\_\\_\\_\\_](#).”
- Place the cursor over the name of the Captioner and choose “[More.](#)”
- “[Assign to type Closed Captions](#)”

After a few moments, the Captioner will get a message, “The Host has assigned you to type Closed Caption.”

After a few more moments, a CC button will appear for everyone else with the message, “Closed Caption is available.”

The captions will only appear if they are turned on at a computer terminal.

**The Host cannot turn captions on/off for anyone else.**

### 3. **CAPTIONER:** Introduce and Set Up

The Captioner should introduce themselves in the Chat to identify if they are needed for attorney-client communications prior to proceeding.

- After a captioner is assigned in the main ZOOM session, the captioner assignment will transfer to the Break Out Room with the attorneys if needed.

#### TIPS:

Both CART (Communication Access RealTime Translation) and the Captioner's name should be put on the Record when parties are introducing themselves.

#### NOTE:

- Captions are delayed before appearing to the Consumer. Please pause between speakers to allow the Captioner and the Consumer to catch up with the text.
- The Captioner may also make other requests to work effectively.
- **Detainees will need CCDOC to assist turning on captions for viewing. (below)**

### 4. **CART CONSUMER/CCDOC:** Turn On Captions - "View Full Transcript"

The CART Consumer/CCDOC should click on the CC button (*bottom center on ZOOM session*) and select "[View Full Transcript](#)" in order to see the most text in a separate window.

#### CAUTION:

If "View Subtitles" is selected, only 1 line of text will be seen by the consumer and the text may move off the screen too quickly to fully process and comprehend the information especially with the normal delays that occur for captions to appear.

The view setting for captions is best determined by the CART consumer and may need to be adjusted.

#### TROUBLESHOOTING:

"[View Full Transcript](#)" will need to be turned on again on each time a new "room" is joined.

### 5. **CAPTIONER:** Inform the court of any impediments to your performance.

**CIRCUIT COURT OF COOK COUNTY  
OFFICE OF ACCESSIBILITY & EDUCATION OUTREACH  
DEAF / HARD OF HEARING ACCESS**

**ZOOM: CART CAPTION ACCESS**

**CAPTIONER INSTRUCTIONS**

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Court participants who need an auxiliary aid for a hearing disability may request Communication Access RealTime Translation (CART) captions for effective communication under the Americans with Disabilities Act of 1990.

For more information on the court's responsibility to provide auxiliary aids and services for persons with disabilities, please contact the Court Disability Coordinator at 312.603.1915 or the Deaf / Hard of Hearing Access Team at (voice or text) 312.919.1452.

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Scroll down in “Settings” to In “Meeting (Advanced)” options. Find “Closed Captioning” and switch the toggle to the right so it turns blue.

**\*\* Account Settings cannot be viewed or changed after a ZOOM session has started. If captions are not enabled prior to the start of the Meeting Session, any participants who have already joined may need to “Leave Meeting” and rejoin the ZOOM session after Captions have been enabled by the Host or OCJ Tech Support.**

### 2. **CAPTIONER: Identify Your Role**

When logging into ZOOM, please list your name as “Captioner – \_\_\_\_\_” so the Host/Judge can easily differentiate the CART writer/Captioner from the Official Court Reporter.

*If you are already signed in with a different name, right click on your picture and select “Rename” to change your name for the session.*

### 3. **CAPTIONER: Inform the Courtroom**

Chat to “Everyone”

“Captioner - \_\_\_\_\_ assigned to write captions on the case of \_\_\_\_\_, Case Number \_\_\_\_\_. I will need to be assigned as the Captioner by the Host before we begin. Are there an attorneys on this case who need my assistance to meet with their clients in a Break Out Room before the case is called?”

*After a captioner is assigned in the main ZOOM session, the captioner assignment will transfer to the Break Out Room with the attorneys.*

#### TIP:

- “**Stop Video**” - Turns off camera.
- “**Start Video**” - Activating your video when the case is called or anytime the courtroom is discussing your case will help court staff remember that you are involved in the case. You may need to answer questions or comment. Participate proactively with discussions.

4. **HOST:** Assign Captioner - "Assign a Participant to Type"

Assign a Captioner.

If captions are enabled in the profile, the Host will be able to see a Closed Caption (CC) button at the bottom center of the ZOOM screen.

*If there is no Closed Caption button for the Host, please see Instruction #1 above.*

- Click **CC Closed Caption button – bottom center**
- Select **"Assign a Participant to Type"**
- Find **"Captioner – \_\_\_\_\_"**
- Place the cursor over the name of the Captioner and choose **"More."**
- **"Assign to type Closed Captions"**

After a few moments, the Captioner will get a message, "The Host has assigned you to type Closed Caption."

After a few more moments, a CC button will appear for everyone else with the message, "Closed Caption is available."

The captions will only appear if they are turned on at a computer terminal.  
The Host cannot turn captions on/off for anyone else.

5. **CAPTIONER:** Put CART on the Record and Troubleshoot Impediments.

When the case is called, the CART writer should identify themselves for the record as providing CART (Communication Access RealTime Translation) captions. Inform the Courtroom that captions are delayed before they appear to the consumer. Request whatever else is needed to work effectively.

EXAMPLE:

*(case called)*

**"Good Morning, Your Honor. CART Captioner \_\_\_\_\_ here to provide CART (Communication Access RealTime Translation) captions on this case.**

**I respectfully request that everyone speak slowly and pause between new speakers. There is a delay before captions appear.**

**We will also need the assistance of the CCDOC to turn on captions for the defendant."**

6. **CART CONSUMER/CCDOC:** Turn On Captions - “View Full Transcript”

The CART Consumer/CCDOC should click on the **CC button** (*bottom center on ZOOM session*) and select “**View Full Transcript**” in order to see the most text from the CART writer.

CAUTION:

If “View Subtitles” is selected, only 1 line of text will be seen by the consumer. The text may move off the screen too quickly to fully process and comprehend the information especially with the normal delays that occur for captions to appear.

The view setting for captions is best determined by the CART consumer and may need to be adjusted. CCDOC may need to adjust caption settings for any detainees.

TIP:

“View Full Transcript” will need to be turned on again on each time a new “Room” is joined.

7. **CAPTIONER:** Inform the court of any impediments to your performance.

**NOTES:**

Court Disability Coordinators (CDCs) will receive ZOOM Instructions: CART Caption Access, Host Instructions. The Host version of this document is very similar to this one, but with less details on the information that only relates to Captioners.

All OCR CART writers will receive an electronic copy of the Host Instructions in case a Judge needs it emailed to them right away.

If there are any problems with providing access, please text me.

THANK YOU!!!

OFFICE OF ACCESSIBILITY & EDUCATION OUTREACH (OAE0)  
Office of the Chief Judge, Circuit Court of Cook County

## American Sign Language (ASL) Interpreters in the Courtroom Judicial Fact Sheet

### Highlights of the Americans with Disabilities Act (ADA) / Title II

#### **Nondiscrimination:**

*"No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, and activities of a public entity, or be subjected to **discrimination** by any such entity."* 42 U.S.C. § 12132

#### **Equally Effective Communication:**

*"A public entity must ensure that its communications with individuals with disabilities are as effective as communications with others."* (Source: Title II Technical assistance Manual, II-7.0000 Communications)

#### **The court should not ask or order family members to provide sign language:**

*"A public entity shall not require an individual with a disability to bring another individual to interpret for him or her...[a] public entity shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication..."* Title II Technical Assistance Manual (TAM) II-35.160(c) (2010). Additionally, family and friends may not be fluent in ASL, and they are not neutral parties to the case.

#### **Auxiliary Aids and Services for Effective Communication / Mandated by the ADA:**

American Sign Language (ASL) is an auxiliary aid/service under Title II of the Americans with Disabilities Act (ADA). In order to ensure equally effective communication for a court participant who is deaf, and who uses ASL, ASL interpreters should be provided for effective communication for all aspects of court business that take place in the courthouse. This includes, but is not limited to: proceedings, voir dire, jury instructions, jury deliberations, jury breaks in the jury room, pre-trial conferences involving a litigant or attorney who is Deaf, side bars with attorneys who are deaf, etc.

#### **What is American Sign Language (ASL)?**

American Sign Language (ASL) is a visual language that uses gestures and physical signs to communicate. ASL is not a literal/direct translation of English. It is a completely separate language. There is no written form of ASL. ASL is not universal because it is based in the Deaf culture within each country of origin. Each country has its own version of sign language.

#### **The Pace of Court Proceedings with ASL:**

The pace of a trial may need to adjust when working with ASL in a courtroom, whether it is for jurors, witnesses, attorneys, etc. The ASL interpreters will signal the court when they need more time to interpret what is spoken aloud into ASL. Because of the gestural nature of ASL, and because it is not a direct translation of English, additional time may be needed for accuracy of translation.

#### **Cost of ASL Interpreters:**

Under Title II of the ADA, the Office of the Chief Judge is responsible for hiring any outside agency ASL interpreters that may be needed to staff court proceedings, and any other court business. In addition, the Office of the Chief Judge has two licensed and certified sign language interpreters on staff. One is a hearing ASL interpreter and the other is a specialist interpreter who is Deaf.

### **Legal ASL Interpreter Certification Requirements:**

Under the Interpreter for the Deaf Licensure Act (2007), the state of Illinois mandates **all court sign language interpreters must be licensed at the Advanced or Master Level** under the Illinois Deaf and Hard of Hearing Commission (IDHHC).

### **Solo and Team ASL Interpreters in the Courtroom:**

Based on the length and nature of a court hearing or trial, the Office of Accessibility and Education Outreach (OAE) may determine that two ASL interpreters are needed. If two ASL interpreters are not available, the solo ASL interpreter may ask the court to allow for breaks during longer proceedings. Regular breaks for the solo ASL interpreter ensure they are always providing the best and most accurate interpretation.

### **Team Interpreting – the National Standard for ASL Interpreters in a Court Setting**

(Source: National Consortium of Interpreter Education Centers – NCIEC Team Interpreting Fact Sheet)

*“For many legal interpreting assignments, sign language interpreters will work in pairs.”*

- **Team Interpreting** is defined as *“the practice of using two interpreters who rotate to provide simultaneous or consecutive interpretation for one or more (non-English speaking) individuals.”*
- **Team interpreters** alternate interpreting duties to:
  - *reduce mental and physical fatigue,*
  - *reduce the potential for errors in interpretation by monitoring each other,*
  - *make adjustments as necessary to ensure accuracy, and*
  - *assist with note-taking and with monitoring the environmental logistics of the interpreted setting.*
  - *When an interpreter is in the “off” position, the interpreter is not actually off duty. Rather, the interpreter is actively monitoring the working interpreter’s accuracy and making adjustments as indicated.*

### **Staffing and Positioning of Sign Language Interpreters:**

- **Interpreter For Counsel (IFC)**  
Seated at counsel table, the Interpreter for Counsel interprets confidential attorney-client communications and monitors the Proceedings Interpreters for accuracy. Any errors by the Proceedings Interpreters are brought to the attention of counsel. Interpreters for Counsel are not officers of the court; they are part of counsel teams.
- **Proceedings Interpreter (PI)**  
Positioned in the well of the courtroom, the Proceedings Interpreters are the court’s interpreters and the unbiased interpreters of the record. Proceedings Interpreters often work in teams to interpret all proceedings and testimony. As officers of the court, Proceedings Interpreters take an oath.
- **Spoken (foreign) Language Interpreter v. Sign Language Interpreters**  
Spoken language interpreters often have a different role and function than sign language interpreters, primarily due to their placement in the courtroom. Spoken language interpreters are often seated at counsel table will interpret both proceedings and attorney-client communications. Spoken language interpreters also use separate Witness Interpreters. Sign language interpreters do not use separate Witness Interpreters; the Proceedings Interpreters cover this function.

### **Certified Deaf Interpreter (CDI):**

- A Certified Deaf Interpreter (CDI) is defined as: A specialist interpreter who is Deaf, and is used to bridge a comprehension deficiency between the deaf individual and the ASL interpreter.
- A CDI may use non-standard ASL, visual mime/gesture, drawings, use space and/or props to enhance communication for a deaf individual with a communication barrier.
- Common settings requiring the use of a CDI: Deaf minors under 18 years old, cases where mental health or cognitive function may be an issue, foreign-born deaf parties, use of non-standardized ASL, evaluations, dialect or regional sign differences.

## Additional Information on the Deaf & Title II:

- **Per the Illinois Attorney General's Disability Rights Bureau , whenever a person who is deaf appears in court, all proceedings and/or court-ordered services, etc. should be paused, and an American Sign Language (ASL) interpreter should be provided.** ADA accommodations, such as an ASL interpreter for effective communication, are never more imperative then when a defendant's liberty is at stake.
- **American Sign Language is its own language. ASL not a literal translation of English.** For example, there is no sign for the legal terms: felony, misdemeanor, prosecutor, probation, weapons, rights, etc. An ASL interpreter will convey the meaning of the terms using symbols specific to the situation at hand.
- **The person who is deaf may be learning the English word for the first time,** at the same time they are finding out what is happening to them in court.
- **In addition to deafness, persons may have cognitive disabilities or a limited understanding of sign language.** In such circumstances, the ASL interpreter may determine that a Certified Deaf Interpreter (CDI) is needed to ensure effective communication. A CDI is a licensed and qualified ASL interpreter, who is Deaf, and who is experienced with diverse idiosyncratic/home signs and gestures. The CDI works with the hearing ASL interpreter to facilitate effective communication.
- **The court's ASL interpreters are trained and qualified to assess the communication needs of persons who are deaf and hard of hearing.** The court's ASL interpreters can determine if a Certified Deaf Interpreter (CDI) is needed to work alongside the ASL interpreter in order to provide effective communication.
- **Handwritten notes or text that is typed on a computer may be an ineffective form of communication. The average adult who is deaf has a literacy rate of a second or third grade child who can hear.** Also, persons who are deaf may nod yes when they do not fully understand what they are being asked, *"Such nodding does not necessarily indicate agreement or approval [or understanding] but rather that someone is paying attention...unlike hearing people, deaf people have spent their whole lives around people they cannot understand, and as a result, many have developed a set of coping mechanisms designed to make themselves appear as if they understand, when in fact they do not."*
- **Lip reading: Only about 30% of speech sounds may be seen on the mouth; making lip reading highly ineffective, especially in a court setting.** Context is the biggest predictor of accuracy. In addition to there are a multitude of potential barriers to understanding speech by reading lips.
- **Persons who are deaf are acutely aware of perceived impatience, being 'rushed through' a hearing, eye rolling, etc.** Persons who are deaf may respond to a question before the question is completed, because of perceived impatience. For persons who hear, the silence can be awkward while the interpretation is taking place.
- 90 to 93% of persons who are deaf are born to hearing parents with hearing families.
- 90% of hearing families with a family member who is deaf, never learn sign language, or are not fluent in sign language.
- 7 – 10% of persons who are deaf are born into Deaf families where they have shared language and culture and can communicate effectively.

Source: "An interpreter Isn't Enough: Deafness, Language, and Due Process" by Michele LaVigne and Vernon McCay. Wisconsin Law Review 5, 843-935. <http://njdc.info/wp-content/uploads/2014/10/An-Interpreter-Isnt-Enough-Deafness-Language-And-Due-Process-.pdf>

**For More Information on the Court's Obligation to Provide Reasonable and Appropriate ADA Accommodations, Please Contact:**

Kate Verrant  
Court Disability Coordinator  
Office of the Chief Judge  
Office of Accessibility & Education Outreach  
312.603.1915 / [OCJ.Accommodations@cookcountyil.gov](mailto:OCJ.Accommodations@cookcountyil.gov)

Ann Wohlmuth  
Supervisor, Deaf / Hard of Hearing Access  
Office of the Chief Judge  
Office of Accessibility & Education Outreach  
312.919.1452 / [Ann.Wohlmuth@cookcountyil.gov](mailto:Ann.Wohlmuth@cookcountyil.gov)

**Additional Resources:**

- “An Interpreter Isn’t Enough: Deafness, Language, and Due Process” by Michele LaVigne and Vernon McCay. Wisconsin Law Review 5, 843-935.  
<http://njdc.info/wp-content/uploads/2014/10/An-Interpreter-Isnt-Enough-Deafness-Language-And-Due-Process-.pdf>
- “Sign Language Interpreters in Court: Understanding Best Practices” written by Carla M. Mathers
- Best Practices: ASL and English Interpretation within Legal Settings by the National Consortium of Interpreter Education Centers: Legal Interpreting  
[http://www.interpretereducation.org/wp-content/uploads/2011/06/LegalBestPractices\\_NCIEC2009.pdf](http://www.interpretereducation.org/wp-content/uploads/2011/06/LegalBestPractices_NCIEC2009.pdf)
- Deaf Interpreters in Court: An accommodation that is more than reasonable by the National Consortium of Interpreter Education Centers: Legal Interpreting  
[http://www.interpretereducation.org/wp-content/uploads/2011/06/Deaf-Interpreter-in-Court\\_NCIEC2009.pdf](http://www.interpretereducation.org/wp-content/uploads/2011/06/Deaf-Interpreter-in-Court_NCIEC2009.pdf)
- Registry of Interpreters for the Deaf (RID) : Standard Practice Papers: [www.rid.org](http://www.rid.org)  
<http://rid.org/interpreting/Standard%20Practice%20Papers/index.cfm>
- “Court Interpretation: Model Guidelines for Policy and Practice in the State Courts” Chapter 9 Model Code of Professional Responsibility for Interpreters in the Judiciary by William E. Hewitt  
<http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Resources%20for%20Program%20Managers/Court%20Interpretation%20-%20Consortium%20Model%20Guides%20for%20Policy%20and%20Practice%20in%20the%20State%20Courts.ashx>
- “COURT ACCESS for Individuals Who Are Deaf and Hard of Hearing: A Guide” by the American Bar Association: Commission on Disability Rights  
<https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/court-access-guide-lr-intracv-accsb-rev022317.authcheckdam.pdf>

## ADDITIONAL RESOURCES

- “An Interpreter Isn’t Enough: Deafness, Language, and Due Process” by Michele LaVigne and Vernon McCay. Wisconsin Law Review 5, 843-935.  
<http://njdc.info/wp-content/uploads/2014/10/An-Interpreter-Isnt-Enough-Deafness-Language-And-Due-Process-.pdf>
- “[Sign Language Interpreters in Court: Understanding Best Practices](#)” written by Carla M. Mathers
- [Best Practices: ASL and English Interpretation within Legal Settings](#) by the National Consortium of Interpreter Education Centers: Legal Interpreting  
<http://www.interpretereducation.org/wp-content/uploads/2011/06/LegalBestPracticesNCIEC2009.pdf>
- [Deaf Interpreters in Court: An accommodation that is more than reasonable](#) by the National Consortium of Interpreter Education Centers: Legal Interpreting  
[http://www.interpretereducation.org/wp-content/uploads/2011/06/Deaf-Interpreter-in-Court\\_NCIEC2009.pdf](http://www.interpretereducation.org/wp-content/uploads/2011/06/Deaf-Interpreter-in-Court_NCIEC2009.pdf)
- Registry of Interpreters for the Deaf (RID) : Standard Practice Papers:  
[www.rid.org](http://www.rid.org)  
<http://rid.org/interpreting/Standard%20Practice%20Papers/index.cfm>
- “Court Interpretation: Model Guidelines for Policy and Practice in the State Courts” Chapter 9 Model Code of Professional Responsibility for Interpreters in the Judiciary by William E. Hewitt  
<http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Resources%20for%20Program%20Managers/Court%20Interpretation%20%20Consortium%20Model%20Guides%20for%20Policy%20and%20Practice%20in%20the%20State%20Courts.ashx>
- American Bar Association (ABA):  
Court Access for Individuals Who are Deaf and Hard of Hearing: A Guide by Commission on Disability Rights  
<https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/court-access-guide-lr-intracvtv-accsb-rev022317.authcheckdam.pdf>
- National Association of the Deaf (NAD) Advocacy Statement: Communication Access in State and Local Courts  
<https://www.nad.org/resources/justice/courts/communication-access-in-state-and-local-courts/>
- Gallaudet University Research & Publications  
Publications various deaf-related studies:  
Literacy, Psychology, Education, Sign Language, Technology, Mental Health, Adult Hearing Loss and the Elderly  
[research.gallaudet.edu/Publications/](http://research.gallaudet.edu/Publications/)