

*Eliminating Barriers to Justice II: Why and How to Ensure Language Access for Limited English Proficient and Deaf/Hard of Hearing Litigants*

**The Intersection of Language Access and Professionalism**

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Professionalism**

Thursday, March 26, 2015

Atlanta's John Marshall Law School - Blackburn Conference  
10:40 a.m. – 11:40 a.m.

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**Overview:**

Judges, attorneys and interpreters are faced more today with ensuring language access to all clients due to our current and changing demographics. Consequently we have a duty to all clients, inclusive of those with limited English proficiency (LEP) and are deaf and/or hard of hearing (DHH), to enlist a heightened sense of professionalism. This heightened sense of professionalism is necessary to ensure that fairness is received by LEP and DHH clients within our court system. All stakeholders must learn and employ the art of appropriate and effective communication on all fronts whether it is exhibited in words, body language or gestures.

This presentation will seek to:

1. Evaluate the experiences of individual stakeholders when representing and/or assisting LEP and DHH parties;
  2. Highlight professionalism principles that serve to guide the conduct of stakeholders; and
  3. Identify how heightened professionalism can assist in ensuring LEP and DHH clients receive full access to our legal system
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- I. Tradition Response to LEP & DHH clients
  - A. Experiences (attorneys, interpreter, judges, and/or clients)
  
- II. Professionalism Guiding Lights
  - A. History of Georgia's Chief Justice Commission on Professionalism
  - B. A Lawyer's Creed
  - C. Aspirational Statement on Professionalism
  - D. Oaths
  - E. Professionalism vs. Ethics
  
- III. Current Response to LEP & DHH clients
  - A. Tradition v. Current
  - B. Metro vs. Rural
  - C. Reconciling Professionalism in Today's Response to LEP & DHH
  
- IV. Professional and Appropriate Communication or Conduct
  - A. Is it static?
  - B. Bias or affinity - sources
  - C. Notion of civility
  - D. Golden Rule – “Do Unto Others As You Would Have Them Do Unto You”
  
- V. What is Cultural Competence or Cultural Intelligence
  - A. Is it being color blind?
  
- VI. Takeaways
  - A. Be an advocate for your client on all fronts
  - B. Know your options before stepping the court room
  - C. Civility works – be nice, be aware, be sensitive
  - D. Always think before you communicate and act
  - E. Manage your reputation at all times

## **RESOURCES**

### **PROFESSIONLISM**

- A Lawyer's Creed
- Aspiration Statement on Professionalism
- Oaths – Attorneys and Judges

- Avarita L. Hanson, *Reputation*, Paul Haskins, Ed., The Essential Qualities of the Professional Lawyer, ABA Center on Professional Responsibility (2013).
- Paula J. Frederick, *Learning to Live with Pro Se Opponents*, GP SOLO (Oct./Nov. 2005), at 48.
- Leah Ward Sears, Wise Choices Are at the Heart of Success, Daily Rep't. (Feb. 1, 2010)

#### **NATIONAL ORIGIN/ RACE/ETHNICITY/CULTURAL COMPETENCE**

- Marni Goldstein Caputo & Lauren Rasmus, *Why Cultural Intelligence Matters*, NAT'L. L. J. at 46 (Aug. 22,2011)
- *Phillip M. Genty*, The Challenges of Developing Cross-Cultural Legal Ethics Education, Professional Development, and Guidance for the Legal Professions, J. OF THE PROF. LAWY. 37 (2011)
- *Verna A. Myers*, What If I Say The Wrong Thing? 25 Habits for Culturally Effective People, ABA (2013).
- *Ira Pilchen*, *Cross-Cultural Legal Transactions Can Easily Get Lost in Translation*, ABA Now, at:<http://www.abanow.org/20n/08/cross-cultural-legal-transactions-can-easily-get-lost-in-translation/> (Aug. 5, 2011)
- *Carla D. Pratt*, *Fairness, Efficiency and Professionalism Needed in Immigration Courts*, ABA Now, at:<http://www.abanow.org/2010/06/fairness-efficiency-and-professionalism-neede-d-in-immigration-courts/> (June 17, 2011)
- *Karen Sloan*, *Research Attests to the Value of Diversity at Law Schools*, Nat'l L. J. (Aug. 15, 2013).
- *Sylvia Stevens*, *Cultural Competency*, Or. St. B. BULL, at: <https://www.osbar.org/publications/bulletin/09jan/barcounsel.html> (Jan. 2009)

#### **AGE/GENERATIONAL DIVERSITY**

- Patricia Gaul, Training for Young Lawyers, Diversity Are Part of the Evolving Practice of Law, ABA Now, at: <http://www.abanow.org/2011/08/training-for-young-lawyers-diversity-are-part-of-the-evolving-practice-of-law/> (Aug. 6, 2011)

#### **COMMUNICATING WITH CIVILITY: CIVILITY IS A COMPETENCY**

- Justan Bounds, *Before You Hit "Send," YLD REV.* at 7 (Summer 2011).
- *Fredia Woolf*, *Now That We Have Social Media, Can We Forget About Public Speaking and Other Forms of Face-to-Face Communication?* *Execusearches.com*,

- at:<http://blog.execsearches.com/2010/11/19/now-that-we-have-social-media-can-we-forget-about-public-speaking-and-other-forms-of-face-to-face-communication/> (Nov. 19, 2010).
- Leah Ward Sears, Telephone Talk: Five Tips for Lawyers, *DAILY REP'T.* (Jan. 30, 2014), at:  
<http://www.dailyreportonline.com/home/id=i202640527787/Telephone+Talk+Five+Tips+for+Lawyers%3Fmcode=i2026i7074542&curindex=5>
  - J. Randolph Evans & Joshua B. Belinfante, To Friend or Not to Friend?, *DAILY REP'T.*, at 4 (Aug. 26, 2011)
  - Roxi Hewertson, 6 Ways That You're A Poor Communicator, Atl. Bus. Chrn. (Nov. 6,  
at:[http://www.bizjournals.com/atlanta/news/news-wire/2013/11/06/become-a-better-communicator.html?ana=e\\_du\\_pap&s=article\\_du&ed=2013-ii-06](http://www.bizjournals.com/atlanta/news/news-wire/2013/11/06/become-a-better-communicator.html?ana=e_du_pap&s=article_du&ed=2013-ii-06)
  - Punishing Incivility, *In re White*, 391 S.C. 591, 07 S.E. 2d 411 (2011)

### For Judges

- Katheryn Hayes Tucker, *Judge Educates with Good Lawyer/had Lawyer Film, Canton Jurist Creates Short Movie to Illustrate the Virtues of Preparation, Organization and Personal Neatness*, Daily Rep't., at:  
<http://www.dailyreportonline.com/Editorial/News/singleEditasp?l=i00329oii88i> (Aug. 8, 2011)
- Debra Cassens Weiss, *Wis. Justice Admits He Lobbed the B-Word at the Chief Justice—and Says It Was Warranted*, ABA Daily J.,  
[http://www.abajournal.com/news/article/wis.\\_justice\\_admits\\_he\\_lobbed\\_the\\_b-word\\_at\\_the\\_chief\\_justice](http://www.abajournal.com/news/article/wis._justice_admits_he_lobbed_the_b-word_at_the_chief_justice) (Mar. 22, 2011)
- Debra Cassens Weiss, *Appeals Court Sanctions Lawyer for 'Frivolous, Outrageous and Unprofessional' Deposition Behavior*, ABA J. (Apr. 24, 2012), at:  
[http://www.abajournal.com/news/article/appeals\\_court\\_sanctions\\_lawyer\\_for\\_frivolous\\_outrageous\\_and\\_unprofessional/?utm\\_source=rss&utm\\_medium=topics&utm\\_campaign=legal+ethics](http://www.abajournal.com/news/article/appeals_court_sanctions_lawyer_for_frivolous_outrageous_and_unprofessional/?utm_source=rss&utm_medium=topics&utm_campaign=legal+ethics).
- Debra Cassens Weiss, *N. J. Judge Reprimanded for Rant About Undocumented Aliens*, ABA J. (April 2, 2010)
- Marla N. Greenstein, *The Delicate Balance of Duty and Impartiality*, ABA, The Judges' J. (Summer 2013), at:  
[http://www.americanbar.org/publications/judges\\_journal/2013/summer/the\\_delicate\\_balance\\_of\\_duty\\_and\\_impartiality.html](http://www.americanbar.org/publications/judges_journal/2013/summer/the_delicate_balance_of_duty_and_impartiality.html)

