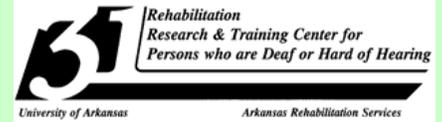




Selected Proceedings of ALDAcon 2004 “Green Mountain Odyssey”



From Pavrotti to Physicians: When and How to Obtain Sign Language Interpreters, Real-time, and Assistive Listening Devices Suzanne Thomas

Suzanne Thomas: We talked about the title of this for a long time, and we decided that from a Pavrotti Concert to your physician the question is the same - How do you get effective communication? We are going to talk about what is effective communication and how do you get it. We are going to rush through the various laws covering effective communication and just give you a bird's eye view.

What is effective communication? It is simply the requirement to make whatever is available to people without disabilities – available to people with disabilities so that the person with a disability can fully benefit from the facility's services, good and programs. That could mean simply writing notes back and forth with a salesperson at an office supply store, providing an auxiliary aid, or service for more complicated communications. The auxiliary aid or service might be a telephone amplifier, TTY's, assistive listening devices, interpreters (sign language, ASL, Pidgin Signed English, Cued Speech, Oral, etc.), or CART (Computer-Aided Real-Time) Captioning. It also could be notetakers, receiving a written copy of the presentation, lecture, or tour guide's presentation.

When you think about your rights to effective communication under the Americans with Disabilities Act (ADA), you also need to remember that the ADA has as its basis, the Rehabilitation Act of 1973. This is not new stuff. Have you ever heard of Section 504 of the Rehabilitation Act? That was our country's first attempt at providing civil rights to people with disabilities. It didn't do too well. That's why the ADA came along in 1990 and said to state and local governments, “We are going to try it one more time – you have to understand you have been required to provide effective communication since 1975!” People think that Section 504 did not include private sector business – when actually it is estimated that 80% of all business were covered under Section 504 or Section 503 – but the problem was probably 79% of them did not understand their responsibilities under the law.

Section 504 of the Rehabilitation Act is important to you because it covers state and local governments and any business receiving or benefiting from federal funds – like hospitals, libraries, doctor’s offices, pharmacies, educational facilities (K-12, colleges and universities and many vocational schools), non-profits and many more. These governmental offices and businesses have special requirements. That special requirement is called “program access.” Program access is an even higher standard than the ADA. When you are dealing with state and local governments, you can talk about the ADA because they are certainly covered under it, but you want to remember that they have a higher standard than the undue burden requirement of ADA. They have an undue hardship requirement. That is an almost impossible defense for a city, county, or state government to use in denying effective communication.

So, when you look at talking about cities, counties, and state governments having a higher standard to meet, so technically you should almost never receive a “no” answer from them when you request effective communication. However, many times they will tell you “no” because they are not aware of their responsibilities under the various laws.

Let’s talk about the private sector business. You may need an auxiliary aid or service when going over your new car purchasing contract, or understanding the mile-high stack of papers that is your new mortgage, or attending a sewing class that came with your new sewing machine, or a home fixer-upper class at a local hardware store or attending a Pavrotti Concert.

There could be times under the ADA when a business may claim an undue financial burden as a defense for not providing effective communication. However, I have been doing this for 30 years and frankly have never seen that defense to be accurate. But one may occur. For instance, a very small volunteer theater group may find providing a CART captionist a financial burden if they need to do so on more than one occasion, but usually something can be worked out. Try suggesting different funding approaches such as the theater asking some other business (hearing aid stores work well) to pay for the interpreter service.

You also have rights to effective communication under Title I of the ADA - the employment provision. We are talking about going out and seeking work (the application process) as well as being employed. Employers have the same responsibility to provide effective communication to their employees. Situations such as providing interpreters for meetings, performance reviews, orientations, insurance plan reviews or the entertainment at a company Christmas party all have the same requirements for effective communication.

Title V of the ADA has one really important part for you to know. That section is where they put the suggestion that you use mediation - alternate dispute resolution - rather than litigation to solve the problems. Obviously, the Department of Justice doesn't have time to take care of every complaint that's filed with them. So, threatening someone with the Department of Justice, makes them just laugh if they know about the law. The Department of Justice receives tens of thousands of complaints, and they take only very

few. The reason they choose the ones that they do accept, investigate and settle, is that the complaint and resulting settlement sets a standard for everybody else. There are lots of court cases that you can track – just Google “Department of Justice Settlement Agreements.” I'm sure there is one covering everything that you may ever want or need from a business in terms of effective communication. You use those court cases to help the businesses or governmental agencies refusing to provide you with appropriate auxiliary aids and services to understand what is expected of them under the law.

And, as a general rule, I say that you don't want to tell people you're going to sue them, because that usually sets everybody's hair up on the back of their neck and they get all uptight, and usually tell you “go ahead.” I believe in telling people what the law requires, and how we are going to work with them to help them do it correctly and it's really no problem once they understand the law. Businesses and governmental agencies need to understand why the law is in place – and yes, unfortunately 30 years after Section 504, many still don't get it!

You know, everybody understands that their building needs to have a ramp. Everybody understands that they need to have accessible rest rooms with grab bars in them and wide doors. But persons that need effective communication often are the silent minority. And it is a little different for businesses to understand because it requires that you be provided with effective communication when you use the services – it isn't like a ramp that you build once and forget. They can't build an interpreter into the side of the room to sit there and wait until a person comes in. They have to order a person. That becomes an issue. You will find people will tell you that they don't have to provide interpreters or other auxiliary aids and services. If you simply say “I notice that you have a ramp into your building, did you charge your customers who use that ramp more for a visit than you charge people who walk up the stairs,” you can show that it's the same thing.

So, who is covered? Let's look at people with disabilities first. If you have a physical or mental impairment that substantially limits one or more of your major life activities, you are covered. Simple as that. What's a major life activity? Hearing. What else?

Audience Member: Walking.

Audience Member: Using the telephone

Audience Member: Seeing, eating.

Audience Member: Speaking.

Audience Member: Reading.

Suzanne Thomas: Learning, Taking Care of One's Self, Breathing - People who have respiratory problems, all of those are covered under the law, whether you can see them or not. Sometimes diabetes is covered, because sometimes a person with diabetes controls it by diet and it doesn't interfere with their life. Other times diabetes certainly is

a substantial impairment, and that person is covered. There is no list of names of disabilities or illnesses that are covered under the ADA, it is simply the substantial limitation to a major life activity.

A record of such impairment is covered. If you have a history of drug or alcohol use, not currently using, you are covered. If you have a history of cancer, five years or five months ago, you are covered. A history of mental illness? You are covered.

The third definition prong under the ADA is if you are regarded as having a disability. Sometimes folks have physical problems that don't cause a major substantial impairment to their life, but it's the way people treat them that causes them to be covered under the law. Certainly burn scars are one of them; birth marks are another. And people that have HIV or AIDS, who may not have the illness rise to the level of a disability, are often regarded as having a disability.

The only part of the ADA that changed in terms of definitions since 1975 was the part of the definition of disability that says that you, as an able bodied person, may be covered under the law if you associate with a person with a disability. So, if you are accompanying a person with a disability, and that person is discriminated against, as well as you, because you are with them, you also could have a charge under the ADA. Unfortunately, Nevada was the first state to have such a lawsuit. It involved a small motel that wouldn't let mentally retarded folks stay there. When chaperones could not get accommodations elsewhere, said to the front desk clerk, "Now we would like the room." The motel said, "No. We know you are going to sneak those folks back in," and they would not allow the chaperones back in either. You have to wonder what kind of common sense people would have to use that kind of logic.

What are places of public accommodations? Any facility operated by a private entity whose operations affect commerce. That means buying or selling things or transporting things across state lines, offering goods or services to the public. It has to fall into one of 12 categories. Most people don't realize the extent of the law. Interestingly, the first one on the list is places of lodging. The reason being that since employment is the number one priority of ADA, they didn't want people whose jobs require them to travel not to be able to travel on business because of their disability.

Some of those 12 include: establishments serving food or drink, places of exhibition or entertainment, places of public gathering, sales or rental establishments, and service establishments (meaning dry cleaners, attorneys, CPA's, beauty shops, etc.), public transportation, and places of public displays like museums. If they put a display up in the mall, it's covered. If they put a display up in the airport, it's covered. Places of recreation, education, social services, and places of exercise or recreation, like fitness centers and gyms are covered. Those are the types of businesses covered by ADA.

Did you notice that there are actually three missing? Churches are not covered under the ADA. If you were to have a wedding or a funeral at a church, the church is not responsible for providing an interpreter. But if it's a mortuary home providing the service in their facility, then they are required to provide an interpreter. Another exempted area

is American Indian reservations and their facilities. And also exempted under the ADA are certain private clubs that for instance have a limited number of members, charge a million dollars a year to join and you have to wait for somebody to die for to you get a spot—those kind of private clubs. Not just the average, ordinary kind of private club that you see in town for recreational facilities.

When you are talking about how a person might be qualified to receive services such as effective communication under the ADA, you are talking about a qualified person with a disability. All that means is that you are able to enjoy the service that is being offered with or without reasonable modifications, auxiliary aids and services, or the removal of other barriers. So, a reasonable modification to a policy might be, for instance, that you have a class for swimming, and they have a class for physically disabled students that want to swim. Perhaps one person who is physically disabled says that they want to go swim with the regular guys, not the disabled class. He can do that. As a modification to the policy, they might have to put the lift up for him to allow him to swim in the regular school class. They cannot tell you that you must attend the classes that are for persons with disabilities.

Auxiliary aids and services, are all of those things that enable you to have effective communication, whether you are vision impaired, hearing impaired, or have cognitive disabilities. Auxiliary aids and services remove communication barriers. How many of you have seen the new banks that have the sliding glass window that comes down and you can't hear through it? What would be an accommodation for that kind of a facility? They can have the glass come down for the protection of their tellers, but if you can't hear through it, they would need to provide an assistive listening device, or some other place for you to conduct your business that would enable you to talk to the teller and effectively understand the conversation.

These laws are simply no more or less than a civil rights act. Whatever is out there for people without disabilities is out there and should be made available to you – period, end of the sentence. It is just about your equal opportunity to participate. The law is very specific. You cannot be denied services or the opportunity to participate based on your disability.

We are going to talk about some specific issues and take examples of how you might advocate for yourselves in getting these services. Telephones need to be accessible, in terms of volume control. Obviously, the telephones are required to be hearing aid compatible. TTY's are required in some situations. Malls are required to have TTY's in their pay phone banks. Volume controls, too. House phones in hotels must have volume controls and there should be one with a TTY, so that if you are downstairs in the lobby, you don't have to go all the way up to your room in order to call someone who might be in their room. You should be able to pick up a house phone just like everybody else.

Provision of interpreters: There is nothing in the law that says businesses or governmental agencies must provide interpreters for people who are deaf or hard of hearing. What the law says is that businesses and governmental agencies must provide *effective communication*. That effective communication means that if necessary, the

business or governmental entity must provide an interpreter, whether it's a sign language interpreter, real-time, or oral, etc. So, when businesses say I don't see anything in the law that requires me to provide interpreters, they are right. But now you have the law that shows them that they are required to provide effective communication.

Anybody ever try to go to a live stage show and request interpreters? You know there are excellent artistic performance interpreters that can make the event really, really enjoyable for you. Remember the communication must be "effective." So for a theatrical performance, the theater would find a "Performance Interpreter", not use a K-12 classroom interpreter. The sooner you can get your reservation for the show the better. This way they know you are coming, and they can allow the interpreters to prepare for the event. It is the facilities responsibility to allow preparation time also.

Let's talk about the things in the hotel room that you can expect to have when you check into a hotel: fire and life safety equipment, strobe lights for both smoke and fire, door knocking signaling device so when the maid or room service comes you know they are there, telephone signaling devices, a volume control for the phone, a TTY, and an alarm clock. Minimally. Why? Because all of those things are available to able-bodied persons. We have one hotel in Nevada that has no phones. It's a place where you are supposed to go to not be disturbed and they have no phones in any of their hotel rooms. Are they required to provide a TTY? No, because there are no phones for anybody. If there isn't something for non-disabled people, they don't need to provide an accessible one for people with disabilities under the ADA. Whatever is available for an able-bodied person must be available to a person with a disability.

When you call to make your ticket reservations, sometimes you get ticketing agents that say, "I'm sorry, we can't book it for the handicap area, you have to call a different company." Some people get really upset with that, but it's actually a really good idea, because that means that they are taking seriously their responsibility for providing accessibility in both the seating for persons with mobility impairments and seating for persons with hearing impairments. Do you know that most large places, stadiums, arenas, concert halls, are required to hold seats for persons with disabilities including hearing impairments until either the show is sold out or until the last day of the show? So, if you want to go, and you want an interpreter to be there, and you are going at the last minute, you should be able to call up and say, "I need an interpreter for the show tomorrow night," and providing there are still seats available you should get an appropriate seat that has been reserved for persons with hearing impairments including accommodations for the interpreter. They will also have seats for visually impaired and mobility impaired persons. What if it doesn't happen? It's because they didn't know. We will get to that in a minute. Make your reservations as soon as possible, but unless the show is sold out, there should be seats available for you, at the last minute. The very last seats that are sold for any performance, after all the seats in the arena are sold out, are the seats for persons with hearing impairments, vision impairments and mobility impairments.

The same thing applies to hotel rooms. The very last room in a hotel must, by law, be an accessible room. When you have a reservation for an accessible room, and you

arrive late, if they say they only have one room left and it's not an accessible room, you tell them that can't be. If there is one room left, it must be an accessible room. Because all of the other rooms can be sold to able-bodied persons, but the last one should be for a person with a mobility impairment. Of course if you did not have a reservation booked, they can sell the last room to a non-disabled guest before you get there. And you are like anyone else – seeing a no-vacancy sign!

Lawyers, doctors, and courts. Lawyers are probably one of the worst in terms of not wanting to provide you with an interpreter or effective communication. Do lawyers have to provide effective communication for you to come in and talk with them? Yes. Absolutely. What if you get in a car accident, the car accident causes you to seek a lawyer for damages, and you find one in the phone book that says free first consultation. Do you think they have to provide an interpreter? Yes. What's their usual reply? "But I can't pay a hundred dollars for an interpreter, I'm not charging you anything." And you say, "If you want to charge everybody for a first visit, that's certainly your right, but if you are giving everybody a free first consultation, then I need to have that same service as well." Then you can send them chapter and verse as to why they need to do that.

Anybody ever have problems with doctors providing interpreters? They are probably first, on my list of people who don't want to do it. Remember I told you that Section 504 covers state and local government and requires that they provide effective communication (interpreters) and has required them to provide interpreters or effective communication since 1975? The language is a little different, but it's the same idea. The law also says that if you receive or benefit from federal funds in any way, you need to abide by the Section 504 regulations also. Do you think that doctors receive or benefit from Federal funds? Absolutely. So, doctors have been required to provide effective communication - or interpreters in certain instances - for their patients since 1975, but many times they still don't do so.

My most common conversation with doctors goes something like this: Hi, Doctor Jones, I just had a call from one of your new patients and I'm sure there is just a misunderstanding here. They think that you are not going to provide an interpreter for them when they come to see you on their first visit. Won't they have to discuss their family history and provide you with accurate information about their problem? Oh, you are not going to provide an interpreter? It's too expensive? How many deaf patients have you provided interpreters for?" They usually say, "I have never had one before, and I'm not going to start now." To which I respond, "Well, you see, this is the problem. Under Section 504 – a federal law, you have been required to provide interpreters since 1975. You can't claim it's an undue hardship to provide one, hundred dollars for an interpreter for the patient, when you have never provided an interpreter in 30 years. Somehow, three dollars a year doesn't seem like it would be a big burden for you. And more importantly, 504 tells you to you make a plan. Haven't you saved any money during these last 30 years? Have you been setting aside money for effective communication? If you were to set aside the sum of 10 dollars a year, you would have had more than enough, and I kind of think you can afford more than 10 dollars a year."

The doctors don't know where to go when you try to explain to them that their responsibility has been ongoing for 30 years. Especially when you are talking to a doctor who has been in practice for that long, and you remind them that back in 1975, the HEW, the old U.S. Department of Health, Education and Welfare, sent every doctor and hospital in this country a form that said I have read Section 504 of the Rehabilitation Act and I fully understand it and I guarantee I will abide by it. They had to sign it and send it back, if they were in business in 1975. I usually say, "surely, it's floating around someplace in a file because you were supposed to keep it. Right?" Well, they didn't keep it; they don't even remember signing it. But you reminding them that they did goes a long ways towards educating them.

Audience Member: If it says effective communication, can they write?

Suzanne Thomas: Sometimes writing works. Writing is a means of effective communication. If you are just going in for your weekly shot for allergies or something that you need to have regularly, you don't need an interpreter. If you have an issue that you need to discuss with the doctor in detail and have him understand what your problem is, how it feels, and to be able to answer his questions, you need one - or if you are discussing complicated options for treatment.

If you don't use a sign language interpreter, you can request a real-time interpreter. The bottom line is that a doctor is not going to sit there and hand write or even type on a computer screen everything that he would say to a hearing person. It's just not going to happen. It takes too long. If you are going in for your annual flu shot, do you need an interpreter? Probably not. But when there are complicated issues, the answer is yes. For instance, say your doctor wanted you to go to a radiologist for complicated tests. You need to drink the nuclear medicine and have many tests with the radiologist. Do you think the radiologist would have to provide an interpreter or some effective communication? Sure. Things happen while you are going through these complicated tests that may require you to talk or for them to make sure that you understand something. But there are some times when interpreters are not needed, and writing will work. Many times the only thing that will be effective is for a person to have an interpreter, real-time, or an assistive listening device.

Audience Member: Two years ago, my mother fell out of the shower and split the back of her head open. I called the paramedics and they came. When I got to the hospital, I requested an interpreter, but because I could speak, they thought I was kidding. They thought it was a big joke. Consequently, I could not go back in the emergency room with my mother, who was absolutely freaking out.

Suzanne Thomas: The question is if the person in the emergency room is hearing, but the care giver or the spouse is hearing impaired, does the hospital provide an interpreter for the spouse or for the care giver of the hearing person? The answer is yes. They are required to do that. Same thing if you have a hearing child and you are a parent who is deaf or hard of hearing, and you need some kind of effective communication, they must provide that for you.

Let me talk to you about new construction. When a business that has communication as one of its prime services, like a hotel, a stadium, or a school, remodels or is being built new, the law requires that an assistive listening device be built into them. It's not a thing that if you want to, you can, if you don't, you don't have to. The law says that it will be included in certain areas. . So, when you see new things going up around your community, if it's a library, school, hospital or a hotel, take a second to call and help them understand obligations to provide assistive listening devices in their facilities. It will save a lot of time and energy down the way. If they don't believe you, give them the ADA Hotline 800 number - 1-800-949-4232 - and they can call and ask. It is one of the missed opportunities that we face all the time.

We are going to play for a half a second. How do you get something that nobody wants to give you? I am the principal of the school and your child is going to be in a play. You want to come and you don't sign. You call me and you say,

Audience Member: Hi. My daughter is going to be in the play. I am deaf and I need to have real-time captioning, CART, for the play. I need to be able to understand, and it's the only way I can understand when my daughter is performing.

Suzanne Thomas: Oh, well, could we give you a script? Because CART is really expensive and we are just a school. How about if we give you a script of the play?

Audience Member: A script will help me to understand the words, but it's really difficult to read and watch at the same time and to be able to follow and understand. Also, perhaps they will not follow the script. It would be really difficult for me to fully understand what is happening.

Suzanne Thomas: Okay. Well, let me contact my superintendent.

Audience Member: Thank you.

Suzanne Thomas: Now you say, "Let me contact them."

Audience Member: Let me contact them?

Suzanne Thomas: Yes.

Audience Member: I could help and explain more about real-time captioning and how it works and who to contact. I would be happy to help.

Suzanne Thomas: Perfect. More than likely, the principal is going to decide you don't need to contact the school superintendent. They know their responsibilities; many times they are just dodging them. Okay, let's do another one. You are going to buy a brand new car; you have looked around and found the perfect one. Now you want to discuss financing. So do you need help in understanding? What do you use to communicate?

Audience Member: For me, if it's one-on-one, I'm okay. Most of the time for that kind of thing, I would make sure my husband is there. But if it's like the example you used of a play or something, I often go and I can't hear. I think my hearing aid is going to be enough, and then I get stuck and I realize, I need help. Also, if the person I'm talking to is a foreigner or they have a low voice or something, I'm not going to understand them.

Suzanne Thomas: That is a big issue, if you know you are going someplace, call them and tell them, you need an assistive listening device, if that helps you. They are required to have them on property and hooked up all the time. But probably 99% of the time, it doesn't happen that way. So, if you call them first, make sure that they understand that you are coming and tell them what you need, and to be sure and set it up. That really helps. Obviously, if you need an interpreter, you need to call and make arrangements as soon as you know so they can get a good qualified interpreter with the skills you need. Call and make sure. Don't even bother to try and wing it, because a lot of the places that you go have exactly what you need; they just have misplaced it because nobody asks for it and they don't think they need to set it up all the time. If you know you are going, call them and expect that they will take care of you.

Let's say your local library has a great mystery book club and you want to go. They say, "Well, we have an assistive listening device," and you say, "Well, it doesn't really help me. I need real-time."

Audience Member: It's no problem, because I know the librarian. I live one block from the library.

Suzanne Thomas: And if you ask them for real-time to go to the mystery book club, would they say okay?

Audience Member: Maybe not, because their budget is very limited.

Suzanne Thomas: Okay, you just heard me say that 504 says you need to be prepared. So, if your little library would have set aside a thousand dollars a year, which isn't really very much, for the last 30 years, they would have 30 thousand dollars, wouldn't they?

Audience Member: But it's not a little library. It's a huge library.

Suzanne Thomas: Do you think a thousand dollars a year to Miami's library would be a lot of money? I don't think so. So, the argument you make is that this law has been in effect for 30 years. Under section 504 you are supposed to prepare. You were supposed to be ready in case anybody ever asks for this. If you would have set aside a thousand dollars a year in a special fund for the last 30 years, you would have 30 grand. I only need a real-time interpreter for two hours once a month. That's not an undue burden or hardship. That's the end of the sentence.

Audience Member: Next year, the ALDA meeting will be in Salt Lake City. There are going to be walking tours. Are they going to have interpreters on these walking tours?

Suzanne Thomas: If there is a cost for the walking tours, then there will be interpreters on the tour. If the walking tours are given by Ma and Pa Kettle, who lived down the street and just want to be good, friendly people and take a group of you all along on a stroll to see how things are in Utah, no interpreters would be required. But if it's an organization – a business, if they provide the service, and if they charge for it, they will provide interpreters. You just might have to educate them.

Now, obviously it's going to be really hard for a real-time interpreter to be along with her computer in hand, on a little dolly as you go down the streets. What would help there would be a script. If you had a docent script and they could stop long enough for you to be able to read it, and see what she is pointing at, that would be effective communication. But effective communication goes beyond: here you go, here is the script, read the script as you are walking along or the bus driver is driving along. You can't look up to see what's happening. It all comes down to reasonable accommodation and effective communication. And there are people that will help the business and educate them how to do it effectively.

Audience Member: We have just been on a recent cruise. We made reservations, but it was very difficult to hear.

Suzanne Thomas: In the US or someplace else?

Audience Member: Someplace else.

Suzanne Thomas: The Americans with Disabilities Act is for the U.S. If you went to Canada, it would work. Their law is even better in some ways. So, if you go to Canada, you would have a different law but the same results. But other places don't have the same rules to play by.

Audience Member: A problem I'm running into in our Internet group of people who have neurofibromatosis, is there are about 300 families, people who are deaf and want to go to college, and the colleges don't want to pay for real-time captioning. Instead, there is another easier method that they can do, that you can learn in a few weeks. The university uses a typist from the school. The student cannot grasp the contents of the material, then they don't do well on the exam and they are not even aware often that they are not picking up all that was given by the instructor. Of course, they don't want to pay money for it.

Suzanne Thomas: If it's a state or city college, they get the real-time if that is what is needed to be effective. If they are having a problem, call the U.S. Department of Justice's 800 number, and schedule a meeting with the university's ADA coordinator and 504 coordinator. You want to have a meeting, before school starts, get off to a good start and say this is what we need. Tell them that you will take whatever steps are necessary to get that service. More than likely, they will provide it if they know what you are intending to do. And if you give them the 800 number and have them call the US Department of Justice it should help. If all else fails, you call the US Department of

Justice and file a complaint, not only with the civil rights division but with the Department of Justice section that deals with educational equity, which is separate and apart from disability.

I know real time is expensive. There are a lot of things that are expensive but money is found to purchase them – things like building an attractive building rather than a plain square building or the landscaping that could have been done cheaper or uniforms that could have been made less expensive. There are a lot of things that could be done cheaper. I just had a school that spent over \$500 a tile for this fancy tile they wanted to put on a building. And there was something like 800 pieces of tile on it. They are not going to ever tell me they don't have money to provide effective communication, if they can afford to decorate a building with fancy red tiles, that cost \$500 a piece.

Audience Member: I have a question, but first, I wanted to just add to the recent discussion about providing CART for the university. I'm from Alaska, and they provided CART for me because they knew that I would ask for it and continue on. Then I finished my degree. Now, I just found out that they are providing the computer assisted notetaking and are telling people they will give them that. And that's the ADA coordinator herself, just trying to save money. That kind of upsets me when they do that.

Suzanne Thomas: Well, if it's not effective, the students will know if it's not effective by their grades. I had a very similar circumstance come about. The student who was previously a strong B student, all of a sudden became a D student. There is no reason that the student would have gone to a D except for the fact that she was missing everything that was going on in the class. So, when something isn't effective in school, it's pretty easy to show how come it's not effective because the grades aren't there. So, you then skip over the ADA coordinator, and you go to the president of the university.

Audience Member: Another question: I flew here on Alaska Airlines and Chicago. They had this new movie, and I got all excited. Instead of the TV with no captioning, they were handing out these private movies. I thought DVD or whatever. I get it, open it up, and there was no captioning or subtitle. I asked, but nobody on the airplane knew. I called the airlines and I found out that if I reserve it ahead of time, they have a special one with subtitles that they will let me use. But isn't that part of new construction? Should that not have been imprinted in the machines?

Suzanne Thomas: It's interesting because the airlines are not covered under the ADA. The airlines are covered under the Air Carriers Access Act. The ADA covers a place in the airport where you can buy some things, such as your ticket—where you can get goods and services or eat; those parts are covered under the ADA. But the part of the airport where you sit and wait for the plane, the gate, and then the jetway, where the planes land, that's covered under the Air Carriers Access Act. So, it's a different law. The Federal Aviation Administration enforces the Air Carriers Access Act, not the Department of Justice. But every airline has a coordinator for disability issues. By regulation they are required to have one. It seems like they could have a captioned one available on the plane, and that shouldn't be so difficult, but I don't know that the law

would require them to. But certainly the law would require that they advertise, if you have a hearing impairment, please register in advance for the special equipment. I would think at least they would have to notify you. Notification is cheap; doesn't cost a dime.

Okay. Let's do another one. They are thinking of widening the street in front of your house. They are going to have a meeting to determine if they are going to widen this two-lane road in front of your house and make it a four-lane road. They advise you that this meeting is happening and you are invited to attend. You definitely want to go. You don't want a four-lane highway in front of your house. So, what do you do?

Audience Member: Call and tell them that you need an interpreter or whatever accommodation you need.

Suzanne Thomas: Okay. A lot of times governmental entities will say that you have to guarantee that you are coming, because if they provide an interpreter, that's going to cost them, and if you don't come, they still have to pay for that. Sometimes they will try and say that if you don't come, you have to pay for it. Neither one works. A city or a county should actually have an interpreter at the City Hall meeting—even if nobody called to say they were coming. But it's nice to call up and tell them so that they can make sure and have someone there. Most of the time it doesn't work the way it's supposed to.

Let's go back to school. You have a son playing football and you want to go to the game. They say you don't need an interpreter because you can see it all happening: You can see the score; you can see everything. Do you think you can get an interpreter for the football game? Sure. The announcer says lots of things: Identifies people on the field, tells you colorful stories about them. There are a lot of things that happen besides just the actual playing. If you want to be able to hear whatever they might say about your son as well as watching him play the game, sure, you ask for the interpreter. Where do you sit? Do you think that there should be a designated area for persons to sit who have hearing impairments, just like people with mobility impairments? Absolutely. There should be a place for the interpreter, that is specified, and is always there, and it shouldn't be on the ten-yard line. It should be someplace in the middle, so you can see the field and the interpreter at the same time. First you are going to explain to them that you are a person with a disability, you are covered under the law (both ADA and 504), and they are a facility that is covered under the law. This is what the law requires them to do. Say it nicely. Sorry you didn't know this before, but I will be glad to help you. And then, if they say no, you go on to the ADA or 504 coordinator, and you get those people involved. Just keep moving up the ladder until you get someone to understand that 504 is 30 years old and you shouldn't be having this problem.

Audience Member: In a gated community, how do I get what I need for the meeting?

Suzanne Thomas: Closed gated communities, homeowners associations, are not covered by the ADA but they are covered by the Fair Housing Amendments Act. Another law, same thing. So, yes, they need to provide effective communication for you,

but not under the ADA—under the Fair Housing Amendments Act. You can get information about that law from the ADA Hotline 800 number. They will tell you the closest office for fair housing, which is administered by HUD, and, interestingly enough, HUD's litigation is handled by the Department of Justice. Getting Minutes of the Meeting are not enough. It goes without saying that you don't pay for the interpreters. No surcharges. Last question.

Audience Member: I was involved in a house fire five years ago. I asked my manager several different times if I could come work temporary, seasonal work, but I can't answer the phone, so they won't hire me.

Suzanne Thomas: They say they can't hire you because you can't answer the phone? If the job that you are applying for is answering the phone, they are right. If the job you are applying for is a bookkeeper, but you have to man the phones at lunchtime or in case they get busy, the answer is no. The essential functions of the job are what you are being hired for, and if there is ancillary work, requiring to you answer the phones, then you can do it in some other way.

Audience Member: There are several other employees in the store. It's a shoe store. It's not a hard job and it's not the major part of the job.

Suzanne Thomas: Salesperson in a shoe store? The answer is no—unless you would be the person closing at night and would be the only one working. If there are other people in the store, then they can answer the phone. Could they make a case that they would not hire you to be the closer at night because you would be the only person in the store and you need to answer the phone? Yes. They probably could make that case. Thank you.

Suzanne A. Thomas is a private Americans with Disabilities Act and Disability Consultant with offices in Las Vegas and Los Angeles. She specializes in the mediation of ADA employment and accessibility issues in the hospitality industry. With over 30 years in the field of disability rights and employment, she is the recipient of many awards for her work with the business community.

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