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NAJIT MOURNS LEADERSHIP LOSS

Mirta Vidal • 1948–2004

The Board of Directors of the National Association of Judiciary Interpreters and Translators mourns the untimely death of Mirta Vidal Orrantia, past president and life member of NAJIT, who was also founding president and president emerita of the Society for the Study of Translation and Interpretation. She died in New York on January 3, 2004. Mirta was an extraordinary leader and example to us all, not only because of her excellence as a professional linguist, but also because of her tireless dedication to improving conditions and advancing professional recognition and respect for interpreters everywhere. She worked in the New York federal courts for some twenty years, both as a staff and freelance interpreter. She was the first head of the interpreters office in the

Eastern District of New York and later joined the staff of the Southern District for a brief period. When not on staff, she continued to be active as a freelance court and conference interpreter. In addition, voluntary work for NAJIT and SSTI occupied much of her time over the past ten years.

Mirta Vidal Orrantia first joined the NAJIT board of directors in 1991. She became president in 1992 and served in that capacity for three years. During her tenure the membership of the organization doubled. Mirta organized the highly successful Miami conference in 1996, and continued on the board until 1999, serving as treasurer during that last year. In recognition of Mirta's many contributions, the NAJIT board of directors, upon

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CALIFORNIA'S SENATE BILL 371

Alexander Raïnof

Senate Bill 371, a momentous and controversial bill relating to court interpretation, was first introduced to the California state legislature by Senator Martha M. Escutia (D-Norwalk) on February 21, 2001. After numerous amendments and much debate (for a history of the bill see <http://www.leginfo.ca.gov/>), the bill was registered on September 28, 2002 in Chapter 1047 by the California secretary of state just a few hours after Governor Davis' approval. The bill took less than two years to become law. Its intent was clearly stated in a hearing of the California senate judiciary committee (chaired, incidentally, by Senator Escutia) on May 8, 2000:

"This bill would make legislative findings and declarations about court interpreters in the judicial branch and express a legislative intent to convert the current system where court interpreters are independent contractors to the courts to a system where they become employees of the judicial branch and

may be represented in employment matters by a bargaining unit to their employer."

The new law, known as the Trial Court Interpreter Employment and Labor Relations Act, "sets forth provisions and procedures governing the employment and compensation of certified and registered trial court interpreters, and court interpreters pro tempore, employed by the trial

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NAJIT SILVER ANNIVERSARY



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(See page 19)

25th Annual Meeting and Educational Conference

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courts" (Senate Rules Committee, 8/28/02). Senator Escutia, who invested considerable time and energy in the bill and used her undeniable power and influence in the legislature to see it become law, declared after the bill was chaptered that "California needs a more functional and reliable system to provide interpreter services" and that "by providing basic employment protections, trial courts will attract and retain qualified interpreters" (AP article, Juliana Barbossa, 9/29/03).

In the California interpreting community, many initially approved or acclaimed the idea of a law to provide protection and security for court interpreters. Many thought such a law long overdue. All too often, after years of loyal service to the courts, interpreters had been summarily dismissed from a courtroom, or told that their services were no longer needed. Such action by the court administration sometimes appeared warranted but in other instances seemed high-handed, and the interpreter had neither a formal appeal process nor a chance to reply. In some instances interpreters reluctantly resorted to litigation against the courts, and some were subsequently reinstated. Others, faced with an immediate loss of income and legal expenses, were daunted by the prospect of costly and uncertain litigation.

The following case is fairly representative. In a criminal case, a juror complained during trial that the interpreter (California state certified) misinterpreted some witness testimony. The interpreter was promptly removed from the court and reassigned. When several days later she was granted an interview with a court administrator, she was given three choices: 1) retake the California state court certification examination; 2) have her skills evaluated by an outside entity; 3) not take the test or be evaluated, but stay in an assignment where she would not work on any criminal cases.

The complaining juror had no expertise in court interpretation. He was a friend of the court (as evidenced from an in camera hearing, later made part of the trial record) who had worked in the prosecutor's office in that court facility before going on to other activities. The interpreter, in addition to being certified by the state of California, also held a Ph.D. in romance languages from the University of California at Los Angeles, and had fifteen years of service at her facility without any complaint as to competency.

When the California Court Interpreters Association (CCIA) and the California Federation of Interpreters (CFI) intervened on her behalf by contacting the court administration and the commission on judicial performance, the interpreter was reinstated in her court facility. Had she had stronger protection, the judge who had removed her arbitrarily might have thought twice before embarking on such a course of action.

Contract interpreters had no medical benefits and often worked with defendants who had tuberculosis, AIDS, or other diseases. Interpreters were uninformed of these conditions. Interpreters claimed that they had contacted diseases (hepatitis) from public facilities, were sometimes attacked or hurt by defendants in the courtroom, had lost work, and had incurred medical bills with no compensation by the courts.

Thus, when CFI, BACI (the Bay Area Court Interpreters Association) and a union, the CWA (Communications Workers of America), contacted Senator Escutia, who subsequently sponsored SB 371, many felt that a law was necessary to protect interpreters, and that allowing them to become employees with union representation was a step in the right direction.

While many interpreters agreed that the original intent was highly laudable, other concerns came to light as the bill evolved. First and most controversial among these was the status of independent contractors. The bill stated that "On and after March 1, 2003, trial courts shall appoint trial court employees rather than independent contractors" (71802 (a) – July 3, 2002 version). The union (CWA), with BACI and CFI in agreement, sought to limit the work provided by independent contractors, but CCIA voiced a strong concern for the status and future employment of independent contractors. Originally the bill would have limited independents to work 60 days a year. After testimony in a hearing before the labor committee of the Senate and intense lobbying by CCIA, the 60 days were changed to 100 and some interpreters were permitted to "opt out." If the interpreter were 60 years of age on January 1, 2003, or if the number of years the interpreter had provided service to the trial courts as an independent contractor prior to January 1, 2003, combined with the interpreter's age, were greater than or equal to 70, the interpreter could request in writing to be classified as an independent contractor, and then work as such without restriction.

The limitations the bill sought to place on independent contractors were viewed by many as problematic, unfair, and possibly unconstitutional. It was suggested that the bill discriminated against younger interpreters of high caliber, many of whom had formal training in translation and interpretation. These interpreters were not eligible to choose to remain independent rather than become pro tempore employees.

In California under Rule of Court 984.2 the courts cannot use non-certified interpreters whenever certified interpreters are available. However, under SB 371, if an independent certified interpreter were available but precluded from working, the court would have to use the services of an uncertified interpreter, in direct conflict with Rule of Court 984.2. Many felt such an outcome would be absurd and counterproductive.

Another criticism of SB 371 was that before becoming full employees in 2005, court interpreters were to be classified as pro tempore employees, a classification that constrains the employee while granting few benefits. Furthermore, the courts would be under no obligation to hire as full employees in 2005 the pro tempore interpreters who had worked during 2003 and 2004.

Other concerns were raised regarding the cost of implementation at a time when California faces an unprecedented financial crisis. It was also feared the bill might aggravate the existent acute shortage of interpreters, which would in turn adversely affect the rights of limited English-proficient defendants and the proper administration of justice.

But the bill became law. When all is said and done, a law protecting professional interpreters from a variety of abuses

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and uncertainties was badly needed in California, as it is probably needed in many other states. Advocates claim that the law provides this protection and will benefit interpreters, those who need interpreters, and the courts for years to come. They feel that any problems from now on can be resolved through union representation and negotiation. Opponents feel that the law is an example of how the road to hell is paved with good intentions, and that its problems far outweigh its advantages.

After heated controversy on both sides, the law is now in effect. Tragedy, as Hegel says, occurs not so much when a right

confronts a wrong, but when a right confronts a right without the possibility of agreement or coexistence. Let's hope that this kind of tragedy will not be visited on court interpreting in California.

[The author is on NAJIT's Board of Directors, Chair of the NAJIT Advocacy Committee, and Vice-President of SSTI. He is a professor in the Romance, German and Russian languages and literatures department at California State University, Long Beach, and teaches in the Translation and Interpretation Certificate Program at the University of California at Los Angeles Extension.] ▲

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All day

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Dr. Dagoberto Orrantia and Janis Palma – see p. 17

Morning

- B. Practical Leadership: running great meetings and growing your organization *Ann G. Macfarlane* free to NAJIT members! see p. 13
C. Translation of General and Corporate Contract Clauses (Spanish/English)
Daniel Giglio
D. Note-Taking for Consecutive Interpretation
Dr. Nancy Schweda Nicholson
E. Voice-Over Talent: A fun and profitable new career for interpreters
Maya Leon-Meis

- Register on website www.najit.org or use form on p. 19. **Earlybird deadline Tuesday, April 20, 2004.**

Afternoon

- F. Do We Have a Deal? Law and Language of Contracts
Philip Katowitz
G. Bilingual Forensic Transcript: process, production and presentation
Sandro Tomasi
H. National Council on Interpreting in Health Care: Medical Terminology in Judicial Interpreting
Dr. Lois Feuerle and Maria Michaelczyk

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