



July 2020

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sign up and support National HLAA.

July 11, 2020 Meeting by Zoom! Zoom in and see your friends from HLAA-EBC. Our speaker will be Ann Thomas. Ann Thomas is a dynamic and award-winning hearing loss advocate. She is president of Hearing Loss Association of America-Diablo Valley Chapter, a member of the HLAA Get in the Hearing Loop Committee, and an HLAA trained Hearing Assistive Technology Specialist.

Our July 11 meeting will be a Zoom meeting:

Everyone needs to register up front at our website: <http://www.hearinglosseb.org/>

After you register, you'll be sent information about how to join the meeting.

HLAA-EB will post to the California State Association webpage and our website.

Check out our website: <http://www.hearinglosseb.org/> Contact us: info@hearinglosseb.org

MEETING NOTES: *Read My Lips: Communication Challenges for Individuals with Hearing Loss in the "New Realty"*

At our June 13th, 2020 meeting, our guest speaker on his sixth visit with us was attorney Steve L. Derby, Esq., from the law firm of Derby, McGuinness & Goldsmith in Oakland and Los Angeles, exclusively representing persons with physical and/or mental disabilities. The firm's philosophy is that we should make the world more accessible for all disabled people, including those who are hearing impaired, particularly because 2 of Steve's 3 children and his late mother were diagnosed with progressive sensorineural hearing loss. He has handled many disability access cases during his practice of law for nearly 30 years. Consequently, he clearly recognizes the legal, financial and practical issues of acquiring reasonable and appropriate accommodations for those with communication challenges, such as hearing loss (HL), especially while living in the "New Realty" of the COVID-19 pandemic.



Overview of Disability Access Laws: Attorney Derby first provided an overview of the most significant disability access laws, such as the 1990 Americans with Disabilities Act (ADA) and 2009 California's Disabled Person's Act. It is all about "access," but the law is not self-executing. The overriding principle is failure, intentional or not, to comply with disability access laws is discrimination. Acknowledging that a negotiated solution is almost always better and that disability access laws can be misused, Attorney Derby has found sometimes as a last resort, lawsuits are the only way.

Effective Communication: Everyone has the legal right in any public place to “effective communication,” meaning that all of us have the same rights as everybody else to hear and be heard. There are 2 kinds of public places: 1) Public places owned by the local, state and federal government; 2) Private places open to and serve the public, such as businesses and non-profits. Public places/covered entities include: town hall, post office, library, polling place, hospital, convention center, school, movie theatre, gym, and law enforcement/police officers. People with communication challenges, such as hearing, speech and visual disabilities, may need to use different ways to communicate. The ADA requires that a public accommodation provide effective communication in their chosen way of communicating, based on an interactive process involving the person with disabilities. The goal is to ensure that communication with people who have disabilities is equally effective as communication with people without disabilities. Therefore, services which may be required to provide “effective communication” include: Auxiliary aids & services (Note-taker, real-time captioning (CART), print of stock speech, etc.); Video relay service (VRS); Video remote interpreting (VRI); Telecommunications relay service (TRS); Companions (animals & people) and Interpreters.

The factors considered when determining what constitutes “effective communication” in any specific situation include: The nature, length, complexity and context of the communications, as well as the person’s chosen way of communication. The equipment must be properly maintained and ready for use; policies must be established, and staff must be adequately trained to carry out the policies in providing the accommodations. An exception is allowed when providing the aids and/or services would result in an “undue burden,” defined as a significant difficulty or excessive expense, but even in those cases, the entity must provide another effective aid or service which would not result in an undue burden. Determining what constitutes an undue burden may vary from entity to entity, changing circumstances year to year, and any direct threat to other people’s health and safety in providing equal access to accommodations.

Non-Compliance with the Law: Both Individuals with identified hearing loss, as well as those who don’t even know they have hearing loss, often need to rely on additional sources of support beyond hearing aids or cochlear implants, such as facial visual cues and reading lips. Hence, effective communication has become especially challenging for these people during the current pandemic where wearing masks and social distancing guidelines apply. Attorney Derby offered some examples of covered entities failing to comply fully with the ADA or other laws, making it more difficult for people with hearing loss to deal with communication challenges during the pandemic. Here are some examples of recent cases of non-compliance with the law:

- Refusal to remove a mask to communicate effectively with a customer who needs to use visual cues & read lips.
- Refusal to allow entrance to, attend to, or communicate with a customer who can’t wear a mask.
- Refusal to allow a companion to join or assist a customer.
- Failure to provide adequate auxiliary aids & services as reasonable accommodations, such as captioning.

Non-Excuses for Non-Compliance: He then cited some favorite non-excuses for reluctance to comply with the law:

- ✓ No hearing-impaired people ever come in here. (Hearing loss is often an invisible disability.)
- ✓ It’s my place – I can do whatever I want. (Everyone must still comply with the law.)
- ✓ I did not mean to discriminate. (Intent does not matter.)
- ✓ I did not know that was the law. (Ignorance of the law is never an excuse for not complying with the law.)
- ✓ That will cost me money. (The law does not require that the accommodation or solution is free.)

Access to Meetings & Captioning: Many people have fewer options for face-to-face, in-person connections now during the pandemic and often must participate remotely in meetings where captioning is especially needed for those with HL. Attorney Derby pointed out that the availability and expense of captioning depends on the provider so we may need to write letters to companies in order to promote a change in this situation:

- Zoom – Captioning & automatic transcripts are available, but can be expensive.
- Google -- Automatic Speech Recognition (ASR) is available, but only to G-Suite customers.
- Microsoft – Free captioning is available for meetings of less than 50 persons, but charges for over 50 people.

- TV captioning – A federal law was passed in 1996 that required all live broadcast TV be captioned, but sometimes the captioning is too small & confusing to read and follow easily. In 2010, a law was passed that required any internet transmission of a previously broadcast program be captioned.

Solutions: Attorney Derby provided some strategies for promoting more effective communication.

- Wear a mask that leaves your lips free to communicate and be seen by those relying on lip reading.
- Wear a clear face shield to protect you while also allowing others to read your lips & use visual cues.
- For simple communication, carry a note pad and pen for writing it down.
- Consider carrying a card that briefly explains your hearing loss problem.
- Provide reasonable advance notice when requesting aids or services as accommodations for your HL.

Some Practical Advice: Attorney Steve Derby concluded by offering some practical advice for avoiding confrontations:

- ❖ Remember, it is an interactive process which is partly their obligation and partly your obligation as well.
- ❖ Initially, announce yourself as a person with a hearing loss by simply stating, “I have a hearing loss.”
- ❖ Always ask immediately to speak to the person in charge, that is, the person who can make a decision.
- ❖ Carry a copy of the law with you while seeing this as an opportunity to inform and educate.
- ❖ Smile & be friendly when asking what assistance they have for effective communication for persons with HL.
- ❖ Thank them if you get a positive response. However, if you get an unacceptable response such as “I don’t really know” or “We don’t have anything,” you might then say: “I believe that you are legally required to have these accommodations available. Who do I talk to about this?” Then, you proceed to politely advise them what is legally required in a public place for effective communication, and otherwise, they are violating the law.
- ❖ At this point, you can continue to try to get them to acquire the accommodation for you, or you can take your business (and your money) elsewhere.
- ❖ If all else fails, consider contacting the Dept. of Justice, Civil Rights Division, or perhaps calling a lawyer.
- ❖ Finally, be firm – keep in mind that you have the right, the power and the tools to advocate for yourself!

For More Information: Visit www.dmglawfirm.com; email sderby@dmglawfirm.com; call (510) 987-8778.

~ Kathy Fairbanks

CONGRATULATIONS WALK4HEARING BAY AREA!

On May 30, our Virtual Walk4Hearing in the Bay Area was held! We are proud to have raised \$41,000 for our national organization as well as the various chapters in the Bay Area. Thank you to all our sponsors and walkers. Next year will (hopefully) be live and we will actually get to walk!

DID YOU KNOW? INTERESTING FACTS ABOUT HEARING LOSS

- Hearing loss is the third most common physical condition after arthritis and heart disease. 20% or about 48 million Americans have hearing loss.
- 28.8 million Americans could benefit from using a hearing aid.
- Gradual hearing loss can affect people of all ages — varying from mild to profound. Depending on the cause, it can be mild or severe, temporary or permanent.
- Degrees of hearing loss: mild, moderate, severe, profound.
- Congenital hearing loss means you are born without hearing.
- Hearing loss is an invisible condition. Since hearing loss is often not visible, people might jump to the wrong conclusion that someone is aloof, confused, not smart, or has had a personality change.

- Noise and aging are the most common causes of hearing loss in adults. There is a strong relationship between age and reported hearing loss.
- Presbycusis, or age-related hearing loss, causes changes in the inner ear as you get older resulting in a slow but steady hearing loss. In older people, a hearing loss is often confused with, or complicates, conditions such as dementia.
- Noise-induced hearing loss may happen suddenly or gradually. Being exposed to everyday noises such as listening to loud music, being in a noisy work environment, or using a lawn mower can lead to hearing loss over many years.
- Sudden, noise-induced hearing loss from gunfire and explosions is the number one disability caused by [combat in current wars](#).
- More often than not, severe tinnitus (ringing in the ears) will accompany hearing loss and may be just as debilitating as hearing loss itself.

LOTS OF GOOD INFORMATION IS AVAILABLE ON THE HEARING LOSS ASSOCIATION OF AMERICA WEBSITE: hearingloss.org

Maybe now is the time to check it out and see what you can learn!

HEARING AID BATTERIES! Only 17 cents apiece at Costco.

HLAA members can join the hearOclub to have batteries delivered to your home! Use the coupon code **HLAAmember** online at hearclub.com or by calling 833.LISTEN-2 (833.547.8362).

DONATE USED HEARING AIDS and/or HEARING EQUIPMENT! See Dale Davis at a meeting or ddavis94605@gmail.com.

East Bay Leadership Team

The chapter is run by a Steering Committee, Leader Dale Davis, ddavis94605@gmail.com who also oversees the Membership Database.

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Only \$45 for an individual or \$55 for a couple. This includes the Hearing Loss magazine in print and digital for one year.

For digital magazine copy only, an individual membership costs only \$35/year. Students are \$25/year.

Go to this URL to join today: <https://www.hearingloss.org/make-an-impact/become-a-memberrenew/>