

The Honorable Rebecca Robertson
Chief Presiding Judge
King County District Court
Rebrobertson@kingcounty.gov

August 21, 2024

Mr. James Wells
Language Access Supervisor
Attn: Issues Committee
WA Supreme Court Interpreter & Language Access Commission
james.wells@courts.wa.gov

cc: Colleen Melody, Wing Luke Civil Rights Division Chief of the Washington State Attorney General's Office and Cheryse Ishii, Language Equity Manager of the King County Office of Equity, Racial, and Social Justice.

Submitted via email

Re: Concerns Regarding Language Access in King County's District Courts

Dear Chief Presiding Judge Rebecca Robertson and Mr. James Wells:

The Fair Work Center and the signatories write to express our shared concern about access to King County District Court's Small Claims Court division for our community members whose primary language is not English. We ask that the court meet with us to discuss the issues outlined in this letter and our proposed solutions.

The Fair Work Center is a statewide, nonpartisan nonprofit organization dedicated to building worker power and to assisting immigrant and low-wage workers in understanding and enforcing their workplace rights. We support workers through direct representation in court, advocacy with federal, state, and local enforcement agencies, and through *pro se* assistance in navigating Small Claims Court.

In too many cases, our clients were denied the language services needed to meaningfully engage with Small Claims Court, and as a result, experienced unjust outcomes. Given the State's¹ and

¹ The Administrative Office of The Courts, et al. (2017). Deskbook On Language Access in Washington Courts. *WA Courts Administrative Office of the Courts*.
https://www.courts.wa.gov/programs_orgs/pos_interpret/content/pdf/StateLAP.pdf.

King County District Court's² commitment to the creation and implementation of a Language Access Plan (LAP), we trust that King County District Courts understand how important it is for individuals to be able to communicate with the court in their primary language. The courts' failure to provide language access erodes the integrity of our justice system and leaves it vulnerable to error, with a disproportionate impact on marginalized communities. Therefore, we write to uplift the challenges our clients have experienced and to ask the court to remedy the issues raised. The key issues that our client stories highlight include Limited English Proficiency (LEP) individuals not being provided with interpreters for their hearings, not being advised of their rights when language assistance is unavailable, receiving vital court communications and instructions solely in English, and required forms either not being translated or not easily accessible on the court website.

A primary goal of the Fair Work Center is to address wage theft experienced by low wage and vulnerable workers. In 2022, we co-authored a report submitted to the King County Office of Equity and Social Justice analyzing wage theft in King County and recommendations for improving labor standards enforcement. Notable findings from the report are that “an estimated 3 in 10 low-wage workers in King County experienced minimum wage violations between 2009 and 2019, depriving them of a sixth of their minimum wages, on average. As in the rest of the nation, immigrants, women, and people of color were much more likely to be affected.”³ In 2014, the U.S. Department of Labor “found that wage theft lowers a minimum-wage worker’s income by between a third and nearly one-half when a violation occurs.”⁴ In our clients’ experiences, wage theft means missed or late rent and credit card payments and diminished security to provide for the basic needs of their families. “For workers making low or minimum wages, losing this much income often means falling into poverty...in a study commissioned by the U.S. Department of Labor, the authors found that minimum wage violations increased poverty rates among workers who experienced wage theft in California and New York by 125 percent and 37 percent, respectively.”⁵ These outcomes of un-mitigated wage theft not only pose significant consequences to the workers who are directly impacted, but to the broader economy of King County.⁶

Fair Work Center has supported over 500 individuals statewide with their labor disputes over the past four years. In 2024 alone, 51% of the clients served spoke a primary language aside from

² Language Assistance Plan (LAP) for KING COUNTY DISTRICT COURT Participating in the Court Interpreter Reimbursement Program (2022). https://kingcounty.gov/en/-/media/courts/DistrictCourt/pdfs/Language_Access_Plan_-_LAP_DeskBook_-_Appendix_B_-_Approved_by_EC_5-3-2022.ashx.

³ Damron, N., Garfinkel, M., Alvarado, D., Galvin, D. Ph.D. (2022). Wage Theft in King County: Analysis and Recommendations for Improving Labor Standards Enforcement. *Fair Work Center*, 4. <https://www.fairworkcenter.org/wp-content/uploads/2024/07/FWC-King-County-Wage-Theft-Study.pdf>.

⁴ *Id.* pg. 10

⁵ *Id.*

⁶ *Id.* pg. 12

English and have limited English proficiency.⁷ We have primarily supported monolingual Spanish-speakers navigate King County Small Claims Court to recover stolen wages. For many, Small Claims Court is one of the most effective tools to combat wage theft. However, language barriers continue to make it challenging for them to have meaningful access to the courts. The disproportionate impact of wage theft on low-wage and LEP workers underscores the importance of them having meaningful language access to the courts, particularly in Small Claims Court where the expectation is that they should have the information and tools necessary to utilize the court process themselves.

Impediments to Filing a Small Claims Case

Often the first hurdle to filing a case is locating the forms and instructions in one's primary language. King County has seen a significant increase in immigrant populations,⁸ and thus faces an increased need for linguistic services to facilitate community participation in the court system. The top five languages spoken in King County aside from English are Spanish, Chinese, Vietnamese, Somali, and Russian.⁹ Only a few of the forms required to file an action are translated, and those few translations are only in Spanish. Because individuals are not receiving translated versions of the instructions and forms vital to their case, they are unaware of requirements, such as submitting the Declaration of Service of Notice of Small Claim.¹⁰

Though the court website can be viewed in several languages, not all languages are available, and the use of machine translation without human review results in variable accuracy.¹¹ Additionally, while the English version of the court website links the necessary forms and instructions at each

⁷ Of that 51%, 46% primarily speak Spanish, 4% primarily speak Tagalog, and 1% primarily speak Thai.

⁸ Balk, G. (2019). New milestone in King County: Immigrant population tops 500,000. *Seattle Times*. <https://www.seattletimes.com/seattle-news/data/new-milestone-in-king-county-immigrant-population-tops-500000/>.

⁹ King County Written Translation Manual (2021). *King County Office of Equity and Social Justice*, Appendix B. <https://kingcounty.gov/~media/elected/executive/equity-social-justice/Immigrant-and-Refugee/LanguageAccessOrd/032321-Final-Written-Translation-Manual.ashx?la=en>.

¹⁰ Declaration of Service of Notice of Small Claim (2022). *King County District Court*. https://cdn.kingcounty.gov/~media/king-county/courts/district-court/forms_resources_library_docs/small_claims_forms/forms_sc/declaration_of_service-small_claim.pdf?rev=87309e45878842a19d83a4eae2e3368f&hash=F33F17A7F0F1B82C34112BAFCB754C86.

¹¹ Although new developments with large language models have made improvements in the way google translate functions, research shows that even small inaccuracies in translation on websites greatly reduce community trust in institutions. This in turn leads to inability to access the courts in a timely and informed manner. *See* Vieira, L. N., O'Hagan, M., & O'Sullivan, C. (2020). Understanding the societal impacts of machine translation: a critical review of the literature on medical and legal use cases. *Information, Communication & Society*, 24(11), 1515–1532. <https://doi.org/10.1080/1369118X.2020.1776370> and Al-khawalda, M., Al-Oliemat, A., (2014). Machine Translation: Deficiency in Translating English Sentences with Different Temporal References into Arabic. *Journal of Education and Practice*, 5(5) 47-52. <https://core.ac.uk/download/pdf/234635364.pdf>.

step,¹² when the website translates into a different language, like Spanish, the linked forms remain in English and the few forms translated¹³ into Spanish are difficult to locate on the website. If one can overcome these hurdles, they are then faced with the difficulty of filing with the court.

The current methods available for filing a case in Small Claims Court are largely inaccessible for LEP individuals. Filing by mail or the online portal require fluency in English due to crucial instructions and forms existing primarily in English. This places a disproportionate burden on LEP individuals to have to file their complaints in person, where they still face language barriers when clerks and court staff are unable to speak the LEP individual's primary language and inconsistently utilize telephonic interpretation services.

Once a plaintiff files their case, even if they have indicated the need for linguistic support, they receive court instructions *exclusively* in English.¹⁴ The Small Claims Plaintiff Packet has a section about how to access interpretation services, but this section is in English and directs the individual to call the clerk's office which, as mentioned, inconsistently uses a language line to communicate with LEP individuals. These initial barriers pose significant challenges for many to successfully initiate a claim with the court.

Impediments to Participating in Small Claims Court Proceedings

With respect to the hearings themselves, in numerous instances, our clients were not provided with interpreters. In one incident, our client had their case dismissed because there was no interpreter present, and they could not understand the proceeding well enough to make it known to the court that they were present. When we requested that the court reopen the case, by email after the hearing, the request was denied. In another incident, when the scheduled interpreter did not show up for the hearing, the court did not have a back-up interpreter, such as a telephonic interpretation service, and did not advise the individual of their right to ask for a continuance. Instead, the individual understood the judge to communicate that the case would be dismissed if they did not proceed in English. This proceeding continued without an interpreter present and without obtaining

¹² See "File a Small Claims Case" portion of the King County Small Claims Court website, <https://kingcounty.gov/en/court/district-court/courts-jails-legal-system/small-claims>.

¹³ Several of the forms needed for a small claims case are not translated into any languages aside from English. Forms that require translation are the Certificate of Service, Notice of Settlement, the entire Small Claims Plaintiff Packet, and the information for accessing an interpreter.

¹⁴ For example, the Small Claims Plaintiff Packet is only available in English and provides vital information on service requirements, how to prepare for trial, how to attend the hearing, and how to present evidence. See Small Claims Plaintiff's Packet, King County District Court, https://cdn.kingcounty.gov/-/media/king-county/courts/district-court/forms_resources_library_docs/small_claims_forms/info_instruct_small_claims/small_claims_plaintiff_packet-july-2024.pdf?rev=2fa18b600042402eaf5b25be3ea662f0&hash=28E00047F9FB47A18740255BF3C91F62.

a waiver of the individual's right to an interpreter in violation of RCW 2.43.030 and RCW 2.43.060. Unfortunately, these experiences are not unique.

When LEP individuals are provided with an interpreter, it is uncommon for the court to have familiarity with the time required for consecutive interpretation as outlined in GR 11.3¹⁵ nor the technology for simultaneous interpretation. Recently, our client couldn't understand the first five minutes of the pre-trial hearing because the judge had not paused to let the interpreter speak and only did so when other court personnel reminded them to do so. Further, remote pre-trial hearings have placed a disproportionate burden on LEP individuals to navigate, without translated instructions or support from the court, the technology necessary for remote interpretation, such as joining an interpretation channel on Zoom. Finally, if a person with LEP does prevail at trial, closing their case is a challenge. The instructions and form to notify the court of a Satisfaction of Judgement exist exclusively in English.

Legal Requirements for Language Access

Though laudable efforts have been made by the court to increase language access, there are still substantial hurdles that impede the ability of a significant portion¹⁶ of King County's residents to engage with the court.

As you are aware, Washington State Laws RCW 2.42¹⁷ and 2.43,¹⁸ King County Executive Order #INF 14-2¹⁹, Title II of the American Disabilities Act (ADA)²⁰, and Title VI of the Civil Rights Act of 1964 (Title VI)²¹ all enshrine the basic rights of LEP and D/HH/DB²² individuals to language access within our court system. Title VI forbids recipients of federal financial assistance from administering programs in ways that discriminate against individuals because of their national origin, which includes one's language.²³ Further, under Title VI the court is obligated to provide access to written materials for LEP individuals.²⁴ The client stories that we have elevated

¹⁵ GR 11.3, https://www.courts.wa.gov/court_rules/pdf/GR/GA_GR_11_03_00.pdf.

¹⁶ Given the large number of Spanish speakers in King County, the County has identified Spanish as a "Tier 1" language which means all documents must be translated into Spanish if they are Public Communication Materials or Vital Documents. (See King County Written Translation Manual, Appendix B, <https://kingcounty.gov/~media/elected/executive/equity-social-justice/Immigrant-and-Refugee/LanguageAccessOrd/032321-Final-Written-Translation-Manual.ashx?la=en>).

¹⁷ RCW 2.42., <https://app.leg.wa.gov/RCW/default.aspx?cite=2.42&full=true&pdf=true>.

¹⁸ RCW 2.43., <https://apps.leg.wa.gov/rcw/default.aspx?cite=2.43&full=true&pdf=true>.

¹⁹ King County Executive Order #INF 14-2: Written Language Translation Process (October 3, 2010), <https://www.kingcounty.gov/~media/operations/policies/documents/inf142aao.ashx?la=en>.

²⁰ 28 C.F.R. Part 35., <https://www.ecfr.gov/current/title-28/chapter-I/part-35>.

²¹ 42 U.S.C. § 2000d., <https://www.govinfo.gov/content/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap21-subchapV.pdf>.

²² Deaf, Hard of Hearing, and Deafblind.

²³ See Title VI, 28 C.F.R. §§ 42.104(b)(2), 42.203(e).

²⁴ *Colwell v. Dep't of Health & Human Servs.*, 558 F.3d 1126 (9th Cir. 2009) (citing 28 C.F.R. § 42.405(d)(1)).

demonstrate just a few of the numerous instances when LEP individuals²⁵ have been denied access to translated documents vital to their cases, to court-appointed interpreters, and the same level of accessibility in locating court forms that are conferred upon native English-speakers. Collectively, these incidents violate the legal rights of LEP individuals and fall short of the guidance proposed in Washington and King County District Courts' LAP and by the Department of Justice.²⁶

Given the importance of language access to equitable court proceedings, we are troubled by the language barriers that continue to harm LEP individuals; as such, we strongly urge the court to take action to resolve them. We respectfully make the following requests:

- That the court meet with us to discuss the issues in this letter and our proposed solutions.
- That the court establish a regular meeting with interested community stakeholders and language justice legal scholars²⁷ to provide feedback on the evolving language access successes and needs.
- That the court automatically provide continuances to LEP individuals if there are interpretation issues and/or when no interpreter is provided; or at a minimum, use a telephonic language line to communicate with the LEP individual and obtain a waiver of their right to interpretation for the proceeding if they so choose.
- That the language of all court communications and notices align with the individual's identified language needs or the court provide an interpreter to read the notices.
- That the court provide human reviewed translations of vital court forms in a small claims case, at a minimum for the "Tier 1" languages of King County, but preferably in the top five languages of King County and update its website to link the translated forms to locations more easily accessible and navigable. Forms should not be translated by machine translation without review of a qualified translator.
- That the court require regular training for all court personnel on the LAP, bench card,²⁸ and how to utilize telephonic interpretation services so that community members can access the clerk's office in person and telephonically.

²⁵ Please note that the individuals highlighted in our client stories are monolingual Spanish speakers and thus should have access to translated public communication materials and vital documents per King County Executive Order, *supra* note 19.

²⁶ 67 Fed. Reg. 41,455 (2002). <https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf> and Communication with Courts Regarding Language Access, U.S. Department of Justice Civil Rights Division, <https://www.justice.gov/crt/file/1052851/dl?inline=>.

²⁷ Professor Gillian Dutton at Seattle University Law School is working to develop guidelines to incorporate machine translation and interpretation in court services in a responsible manner with appropriate human oversight and has agreed to accompany us to the meeting to share the results of her research and provide support.

²⁸ Bench Card Courtroom Interpreting (2021). *Washington Court Interpreter Commission*. <https://www.courts.wa.gov/content/publicUpload/Interpreters/BenchCard.pdf>.

We appreciate the strides that have been taken to improve access to the courts for LEP individuals and extend our gratitude for your willingness to consider our requests and find meaningful solutions. We look forward to discussing these important issues and working together to fortify our commitment to equal access to justice for all Washingtonians.

Sincerely,

Fair Work Center/ Working Washington



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Paralegal

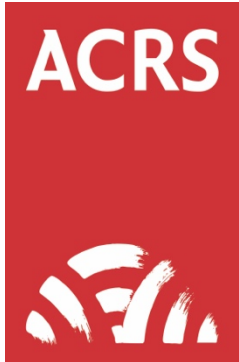
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Additional Signatories

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Appendix of Signatories



Asian Counseling & Referral Service promotes social justice and the well-being and empowerment of Asian Americans and Pacific Islanders and other underserved communities – including immigrants, refugees, and American-born – by developing, providing, and advocating for innovative, effective, and efficient community-based multilingual and multicultural services. ACRS is interested in signing on as a social justice organization that annually provides a variety of social services in 40+ languages to over 30,000 individuals in the King County area. This includes classes for English language learners, job skills training, citizenship application assistance, digital literacy classes, and a variety of other services meant to assist community members with limited English proficiency.



ALNOOR CENTER OF WASHINGTON
COMMITTED TO SERVE OUR COMMUNITY

Al Noor Center of Washington provides tailored educational programs, culturally sensitive materials, language accessibility, and valuable resources to workers from diverse backgrounds. We have achieved significant milestones in supporting these communities and our data reflects a remarkable impact on workers' awareness of their rights which has led to a reduction in rights violations and improved working conditions.



Asian Pacific American Labor Alliance is the first and only national organization of Asian American, Native Hawaiian and Pacific Islander (AANHPI) workers dedicated to advancing civil rights, immigrant rights, and economic justice. We play a distinct role as the sole nexus between organized labor and the AAPI community. APALA Seattle Chapter firmly believe that everyone, regardless of their background or preferred language, deserves equal access to justice, ensuring they can navigate the system with clear understanding. Addressing language barriers is essential in advocating for communities of color, immigrants, and refugees, as it is the first step toward accessing the entire system equitable. We know this all too well because during the pandemic we helped workers in language navigate other government systems that built for English Only speakers.



Casa Latina advances the power of Latino immigrants through educational and economic opportunities. Our programs are unique in that they combine direct services with community organizing, helping Latino immigrants meet their immediate needs and become key spokespeople in the fight to build a more equitable future for all immigrants.

FAIR WORK CENTER

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Colectiva Legal del Pueblo (CLP) is a non-hierarchical collective founded by undocumented immigrants, committed to advancing migrant justice and empowerment within immigrant and BIPOC communities. Rooted in firsthand experiences navigating the complexities of the immigration system, CLP operates with a mission to dismantle barriers to inclusion and foster a society where all individuals, regardless of immigration status, can thrive. Our clients predominantly speak Spanish, but we also provide assistance to individuals speaking languages such as Mam, Quiche, Arabic, French, and Kanjobal.



Latino Community Fund works to create a vibrant community through civic engagement with programs that promote health, economic and environmental justice. We often work with LEP individuals to access resources when they face language barriers. This includes supporting monolingual Spanish speakers in navigating systems by providing translation of documents and informing them of where to access linguistically accessible resources.



Latina/o Bar Association of Washington's mission is to promote, support, and serve both Washington's current and future Latina/o legal professionals and, the broader Latina/o community by offering professional development opportunities to grow members' expertise and networks for career advancement; leveraging legal and advocacy skills to assist community members and issues which impact the Latina/o community; and providing opportunities to promote mentorship, scholarship assistance, enhanced connectedness, and cultural celebration.



Northwest Justice Project is Washington's largest publicly funded legal aid program. Each year NJP provides critical civil legal assistance and representation to thousands of low-income people in cases affecting basic human needs such as family safety and security, housing preservation, protection of income, access to health care, education, and other basic needs. NJP works to secure justice through high quality legal advocacy that promotes the long-term well-being of low-income individuals, families, and communities.

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One America advances the fundamental principles of democracy and justice at the local, state, and national levels by building power within immigrant communities in collaboration with key allies. Language access is a vital priority for our communities and our members - many of whom are monolingual in a language other than English - to ensure we all thrive in a state we all call home.



Service Employees International Union 775 represents more than 50,000 long-term care workers providing quality home care, nursing home care, and residential services in Washington, Montana, and Alaska. Our mission is to unite the strength of all caregivers, to create a better life for ourselves and those we care for, and to lead the way to a more just and equitable world. We are committed to our membership and advancing language justice as a part of our Mission, Vision, and Values. Our membership is largely made up of immigrants and refugees, and we will continue to fight for justice for all through a language justice lens.



WASHINGTON IMMIGRANT
**SOLIDARITY
NETWORK**

WA Immigrant Solidarity Network is the largest immigrant-led coalition in Washington and advances the power of immigrant and refugee communities through a multiracial, multilingual, and multi-faith coalition. Our organizing strategy educates and mobilizes statewide to uphold and defend the rights and dignity of all immigrants and refugees, centering the voices of impacted communities. We are a powerful, volunteer-driven network of immigrant and refugee-rights organizations and individuals distributed across the state that strives to protect, serve, and strengthen communities across the state. We work to provide support, capacity, and resources to organizations' efforts to build power and a united voice statewide.