

Navigating the Linguistic Jungle in the Legal Setting

Tips for using interpreters for limited English proficiency clients or witnesses

According to the Judicial Council of California, every day in California courtrooms more than 80 different languages are spoken by parties and witnesses. But, did you know that anyone who doesn't speak English and is charged with a crime is entitled to an interpreter in court? So is anyone who must testify as a witness.

Several national and state laws dictate the use of interpreters in the judicial setting for persons with limited English proficiency (LEP). For example, a person qualifies for an interpreter if they speak only, or primarily, a language other than English so as to cause at least one of these three problems: inhibition of the party's comprehension of the proceedings, inhibition of the party's communication with counsel or the judge, or, in the case of a witness, inhibition of the witness' comprehension of questions and presentation of testimony (28 U.S.C. 1827 (d)(1)).

So how can you navigate the rigorous terrain of the linguistic judicial jungle? Global Language Solutions (GLS) offers the following suggestions and useful resources for using interpreters in a legal setting:

1. **Proper preparation.** Just as you prepare for depositions, trials and other legal proceedings, so should your interpreter. Before the proceedings begin, conduct a pre-session with the interpreter, providing case information, a summary of expected testimony, and a copy of any relevant documents which the interpreter will be expected to translate. The pre-session is also an opportunity for both parties to understand the interpreter's role in the proceedings, uncover any possible barriers related to translating the subject matter, confirm familiarity with the specific cultures or dialects, and address any ethical concerns.
2. **Guessing should be avoided.** Court interpreters who do not hear or understand what a speaker has said should seek clarification. If an expert witness will be using specialized vocabulary, such as a high-level medical testimony, notify the interpreter in advance, because even skilled interpreters may be deficient in technical terms. This helps the interpreter refuse the assignment if he or she is not qualified or find an interpreter with more experience in the subject matter needed during that portion of the proceedings. *NOTE: Interpreter errors should be corrected for the record as soon as possible¹.
3. **Interpreters are not lawyers.** Interpreters should not be asked to explain legal concepts or procedures or to fill out forms without an attorney present. Legal explanations must be left to attorneys.
4. **Excuse me? Can you repeat that?** Make sure the interpreter's English can be understood. Watch out for thick accents that may impede communication. The Court

Interpreters Act, 28 U.S.C. 1827 mandates dismissal of an interpreter who cannot communicate effectively with the court and counsel.

5. **All words and cultures are not created equal.** Interpreters also must be able to handle different dialects. For instance, the Spanish spoken in Mexico is typically quite different from the Spanish spoken in Puerto Rico. Whenever possible, try to hire an interpreter who is a native speaker of the particular dialect or, at the very least, familiar with country-specific linguistic and cultural issues.
6. **Code of ethics.** The degree of trust that is placed in court interpreters requires uniform ethical standards that will both guide and protect court interpreters in the course of their duties as well as uphold the standards of the profession as a whole. The National Association of Judiciary Interpreters and Translators has a Code of Ethics and Professional Responsibilities², which is binding on all its members.
7. **Industry expertise.** Just as you would not hire a divorce lawyer to manage your meeting with the IRS, it is highly recommended you hire someone with experience interpreting in a courtroom setting. When trained and tested interpreters are not available, judges may rely on someone in the courtroom, perhaps a friend or family member, who speaks the defendant's language. But without training, few bilingual speakers can accurately and comprehensively interpret legal language flowing at 150 words a minute.
8. **State certification.** There are 29 U.S. states that are members of the Consortium for State Court Interpreter Certification. States vary in the method of interpreter certification program implementation, such as Utah, which has legislatively established programs with details of the program governed by statute or by state rule. To find out about the other 28 states involved in the interpreter certification consortium, visit:
http://www.ncsconline.org/WC/Publications/Res_Ctlnte_HomePagePub.pdf.

For more information...

It is common to encounter the misconception that if an individual is bilingual he or she can interpret and translate court documents. In reality, the demands of courtroom interpreting are particularly complex, requiring extensive knowledge of at least two languages and rigorous training in interpretation. To find out more about LEP mandates in a variety of settings or for access to interpreters in your area, please contact Global Language Solutions at 949-798-1400 or info@globallanguages.com.

¹ National Association of Judiciary Interpreters and Translators

² Code of Professional Responsibility of the Official Interpreters of the United States Courts

References:

- The Court Interpreters Act, 28 U.S.C. 1827 Interim Regulations of the Director of the Administrative Office of the United States Courts Implementing the Court Interpreters Amendments Act of 1988
- Federal Rules of Evidence, Rule 604
- Federal Rules of Evidence, Rule 702