

Ratified VRI Agreement between Region 3 and
CFI February 1, 2020

1. Section 13 - Labor Management Committee

The Parties agree to establish a VRI Labor Management Committee that shall meet three times per year (or more often by mutual agreement) to review and attempt to resolve operational issues, including but not limited to technology issues that may arise as the result of the implementation of spoken language Video Remote Interpreting. The Committee may recommend an evaluation process for evaluating the VRI events.

The Committee shall be composed of three management and three union representatives. The Committee shall sunset thirty months after implementation. Each side shall submit a written agenda to the other not less than five days before meeting.

2. Minimum Technology Guidelines

CFI recognizes that Region 3 will, at its discretion, adopt minimum technology guidelines and the Courts will, at a minimum, provide equipment that meets those guidelines.

**Replaces VRI Guidelines “Attachment A” to Region 3 VRI Agreement dated August 5, 2014
February 1, 2020**

Definition- For the purposes of this agreement, the definition of Video Remote Interpreting (VRI) is when the interpreter is remote from both the proceeding/event and the individual(s) for whom the interpreter is rendering interpreting services by means of an audiovisual delivery system. Except as addressed in the terms of this Agreement, the use of spoken language VRI shall not otherwise modify the contractual or statutory requirements of the Trial Court Interpreter Employment and Labor Relations Act or the terms of this Memorandum of Understanding.

Section I

1. Compensation – Interpreters who are assigned to perform spoken language VRI shall receive a 25% stipend for any day in which they perform spoken language VRI. The stipend for part-time interpreters shall be based upon the number of hours they were assigned to work on that day.
2. Reporting of VRI events – Each court will maintain a record of VRI events including the date, case name and number, language, case type, event type, duration, Interpreter assigned, whether the Interpreter assigned is an employee or independent contractor and any difficulties encountered, and whether the interpreter is certified, registered or provisionally qualified. The Region Chair will provide a report to the Union of VRI events upon request at reasonable intervals, not to exceed quarterly reports.

Section II

1. VRI Guidelines
 - a. In addition to the guidelines set forth below in the text of this MOU, the Region adopts the attached JCC Guidelines for VRI for spoken language interpreting events as an addendum to this MOU. Where or if the JCC guidelines are determined to conflict with the guidelines below, the guidelines in Section II shall prevail.
 - b. When a home court interpreter is not available within the home court county an individual analysis should be made of the language and legal demands of the case before recommending VRI. The interpreter coordinator/manager should perform this analysis. This analysis should consider whether the use of VRI is appropriate based on the following guidelines:
 - i. Events that are expected to last less than 30 minutes in duration.
 - ii. Events that are not complex, and are generally non-evidentiary.
 - iii. Events involving uncontested infractions that require no testimony, like traffic cases.
 - iv. Events of a nature that cannot be delayed such as arraignments for in –custody defendants, bond review hearings, bail reductions, and temporary restraining orders.
 - v. Out-of-court communications involving interviews such as attorney-client conference, self-help centers, post-court services, review of probation conditions, pre-trial services and inquiries from the public.
 - c. Training: prior to implementing VRI, training will be provided to Judicial Officers, interpreters and court staff on the use of these guidelines, checklist, as well as the use of the court’s VRI equipment, including but not limited to, an explanation and demonstration as to how the equipment works.

- d. Modes of Interpretation: generally, remote interpreting shall be performed in the consecutive mode. Initial instructions will be reviewed with participants prior to each VRI event and should include a brief instruction on how to use the consecutive mode in the proceeding.
 - e. Sight Translation: sight translation may be performed over VRI for appropriate events provided the interpreter has a clear and readable copy of the document(s). The documents may be provided by WebEx document share, email or other digital scanning device.
 - f. Confidential Communications: the Court will ensure a reliable method is in place for attorney-client privileged communications and instruct all parties, including the interpreter, on a method for confidential communications.
 - g. Ethics: interpreters using VRI are bound by the same professional standards as on-site court interpreters (CRC Rule 2.890) and the Judicial Council of California Professional Standards and Ethics for California Court Interpreters, 5th edition, May 2013. When necessary, the interpreter shall inform the Judicial Officers of any impediments to performance.
 - h. Assignments: to the extent feasible, VRI interpretations will be prescheduled. All interpreters shall be trained on the use and protocol of VRI, prior to the assignment. Interpreters shall be assigned to VRI based upon the needs of the Court. The Court will solicit volunteers to participate in the VRI rotation in each language pair. In making assignments to VRI, the Courts will use reasonable efforts to rotate assignments among employee interpreters who volunteer for the rotation. However, if there are no volunteers, interpreters will be assigned on a rotation based upon need. Whether the VRI interpretation is in a single event or multiple events, interpreters will have a minimum of a five-minute break between VRI events lasting more than five minutes. In the event that an interpreter becomes fatigued during a VRI event, the interpreter shall notify the Judicial Officer and request a break. A break shall be granted at Judicial Officer discretion.
2. End Point Conditions: the Court will provide a separate room, in a courthouse, where the interpreter performing VRI will not be interrupted or overheard. Notice should be posted outside of the room to encourage a quiet environment. It shall be the responsibility of the interpreter, at their choice, to post or not post the Notice. The Notice shall be provided by the Court.
 3. Unit Work and Contracting Out: use of VRI in spoken language shall not modify the contractual or statutory requirements related to bargaining unit work or contracting out unit work. Specifically, prior to utilizing an independent contractor, to perform spoken language VRI, the Court will ensure that there are no employee interpreters available to perform the spoken language VRI. See Government Code Section 71802.
 4. Preparation and Protocols: prior to beginning the interpretation in a VRI event, the remote interpreter will have an opportunity to confirm a clear view of speakers and to confirm a good audio and video connection has been established. Prior to or at the start of the proceeding, the interpreter will be notified of the nature of the proceeding, and the names of the participants, and will be provided any applicable documents that may be reasonably available. Prior to beginning the interpretation in a VRI event, the Judicial Officer will confirm that all participants can hear the interpreter: the Judicial Officer, the parties, counsel and court reporter. The court should make clear that if for any reason VRI is not facilitating effective communication, any participant can request that the matter be suspended or rescheduled with an onsite interpreter. The decision to continue and/or reschedule the matter shall rest with the Judicial Officer.

- a. The following individuals must hear the remote interpreter's voice clearly and have clear access to one or more microphones to ensure that the interpreter can hear all their voices clearly.
 - i. Judicial Officer
 - ii. Defendant/Respondent
 - iii. Plaintiff/Petitioner
 - iv. Counsel for all parties
 - v. Prosecutor
 - vi. Any other LEP participant
- b. All parties and the interpreter need to check microphone and camera clarity before beginning interpretation.
- c. Courts and interpreters should have technical support easily available.
- d. Clear and concise operating instructions should be posted with the VRI equipment.

Note: it is critical that prior to the start of a VRI event, all parties, Judicial Officers, court staff, and officers of the court, know how to allow for confidential conferencing when needed.

Section III

1. Checklist

The interpreter coordinator or courtroom clerk, Judicial Officer, and remote interpreter should go through a checklist to ensure everything is in place prior to starting the hearing. An example of a checklist is as follows:

- Set meeting using Outlook or similar software that can provide all participants with logon details for hearing.
- Position and adjust webcams, phones, and headsets to ensure clear picture and sound for all courtroom participants.
- Make sure equipment is operational.
- Initiate a test with the assigned remote interpreter.
- Have an action plan to assist if a confidential attorney-client communication is requested.
- Share the confidential communication action plan with the interpreter.
- Upon completion of the test of the equipment and readiness:
 - i. Stand by for the Judicial Officers to request interpretation or for the hearing to begin.
 - ii. Confirm visibility and audibility for the Judicial Officer of both the court user and the interpreter.
 - iii. Inform Judicial Officer immediately if any technical difficulties arise.
 - iv. Remain present throughout the hearing until the Judicial Officer releases the interpreter.
 - v. Assist as needed with requests for confidential communication.
- After the hearing:
 - i. End meeting, which will drop all participants automatically.

- Remote Interpreter Responsibilities:
 - Make sure equipment is turned on and operational before the scheduled test.
 - Be ready to answer when the Court representative initiates the equipment test.
 - Check that your location is suitable for VRI - such as adequate lighting, no distracting, background noises or objects, etc.
 - Adjust your equipment for clear picture and sound on all incoming and outgoing signals and devices.
 - Stand by for the Judicial Officer to request interpretation or call the hearing to order.
 - Assist as needed to affirm visibility and audibility of the court user(s) and interpreter.
 - Inform Judicial Officer immediately if there are any technical difficulties.
 - Remain in place until released by the Judicial Officer.

ADDENDUM TO MOU

JCC Guidelines for using VRI in a court proceeding

1. Need to Interrupt or Clarify, and Suspend and Reschedule

When using VRI, the court should consult with the interpreter to determine how best to facilitate interruptions or clarifications that may be needed. The court should suspend and reschedule a matter if, for technology or other reasons, VRI is not facilitating effective communication, or if the Interpreter finds the communications to be ineffective.

2. VRI and VRI Challenges

The court shall be mindful of the particular challenges involved in remote interpreting, including increased fatigue and stress. Events involving remote interpreting should have shorter sessions and more frequent breaks.

3. Participants Who Must Have Access

The remote Interpreter's voice must be heard clearly throughout the courtroom, and the interpreter must be able to hear all participants.

4. Visual/Auditory Issues, Confidentiality, and Modes of Interpreting

VRI is generally preferred over other methods of remote Interpreting that do not provide visual cues, such as telephonic interpreting. However, there will be situations where VRI is not possible or is not necessary. (See below for visual/auditory issues and requirements for confidentiality that must be considered and accounted for when implementing VRI.)

5. Documents and Other Information

The court shall ensure the availability of technology to communicate written Information to the interpreter including a copy of exhibits being introduced, as well as information after a proceeding, such as an order, so the Interpreter can provide sight translation to the LEP individual if needed.

6. Professional Standards and Ethics

The same rules for using qualified interpreters apply to assignments using VRI. It is the intent of the language access plan to expand the availability of certified and registered interpreters through the use of VRI. All interpreters performing VRI should be familiar with – and are bound by – the same professional standards and ethics as onsite court interpreters.¹

7. Data Collection

- a. Courts using VRI in the courtroom should monitor the effectiveness of their technology and equipment, and the satisfaction of participants.

¹ The requirements for provisionally qualifying an Interpreter can be found In Government Code section 68651(c) and California Rules of court, rule 2.893.

- b. For purposes of supporting funding requests, courts should track the benefits and resource savings resulting from VRI on an ongoing basis (e.g., increased certified/registered Interpreter availability to assist with additional events due to the use of VRI, and any cost savings).

Suggested Language for the Judicial Officer When Considering Objections Related to Remote Interpreting

We will have a court certified/registered (insert language) _____ interpreter help us with these proceedings.

The interpreter is at a remote location and will appear in court via video- (or audio-) conference. Please remember to speak slowly and clearly and not speak at the same time as each other.

Do parties and counsel have any objections to the interpreter participating by remote interpreting for today's proceedings?

[Judge rules on objections, if any, or assists in resolving concerns.]

If proceeding with VRI (or audio):

Parties and counsel had no objections to the use of remote interpreting, so the court will proceed with today's hearing.

Parties and counsel objected to the use of remote interpreting, but the court has overruled those objections, so the court will proceed with today's hearing.

If not proceeding with VRI (or audio):

Parties and counsel objected to the use of remote interpreting. The court will not continue with today's hearing at this time and will reset this matter for a qualified (Insert language) _____ language interpreter to be available in person.

Suggested Language to include in the Minutes:

Interpreter (name) _____ is present by video remote conferencing (or audio) and sworn to Interpret _____ (Insert language) language for _____ (name)
(If appropriate)

Sworn oath on file with the Superior court of California, County of _____

Visual/Auditory Issues, Confidentiality, and Modes of Interpreting When Working Remotely

1. A clear view of the LEP court user is more important than a view of every speaker. Although cameras on all stakeholders may be beneficial, they may not be essential. A speakerphone is not recommended unless it accommodates the other requirements of these guidelines, including the ability to be part of a solution to allow for simultaneous interpreting when needed.
2. To ensure the opportunity for confidential attorney-client conferencing, the attorney should have available an individual handset, headset, or in-the-ear communication device to speak with and listen to the interpreter.
3. Interpreting in the courtroom regularly involves both simultaneous and consecutive modes of interpreting. This can be achieved in a variety of ways using existing and emerging technologies. In longer matters, failure to have a technical solution that can accommodate simultaneous interpreting will result in delays of court time and may cause frustration with remote interpreting. Courts should use a technical solution that will allow for simultaneous interpreting. However, there may be proceedings (for example, very short matters) in which consecutive interpreting is adequate to ensure language access.
4. Recognizing that courts may implement very different technical solutions for VRI, it is critical that prior to the start of an interpreted event all parties, judicial officers, court staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed.
5. All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation.
6. Both VRI interpreters and courts should have technical support readily available.
7. Clear, concise operating Instructions should be posted with the VRI equipment.

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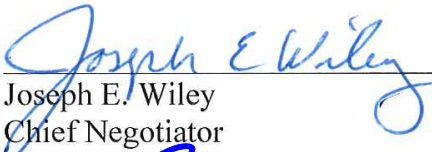
VRI Agreement between the
Superior Courts of California - Region 3
and the

*California Federation of Interpreters/
Newspaper Guild-Communications Workers of America, Local 39000*

Dated 9-30-2020

**Superior Courts of California – Region 3
Negotiating Committee**

**CFI/TNG-CWA, Local 39000
Negotiating Committee**



Joseph E. Wiley
Chief Negotiator

Laurie Burgess
Union Chief Negotiator



Stephanie Bohrer

Member, Region 3 Court Interpreter
Employment Relations Committee

Region 3 Union Representative

Region 3 Union Representative