

# Professional Standards and Ethics for California Court Interpreters

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FIFTH EDITION, MAY 2013



JUDICIAL COUNCIL  
OF CALIFORNIA

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COURT INTERPRETERS PROGRAM

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Judicial Council of California  
Court Interpreters Program  
455 Golden Gate Avenue  
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This manual is also available online at: <http://www.courts.ca.gov/2693.htm> .

For more information or to request hard copies, please contact the Court Interpreters Program at 866-310-0689 or [courtinterpreters@jud.ca.gov](mailto:courtinterpreters@jud.ca.gov).

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# Ethics Defined

*The American Heritage Dictionary of the English Language, Fourth Edition* (Boston: Houghton Mifflin Company, 2000) defines ethics as “the study of the general nature of morals and of the specific moral choices to be made by a person; moral philosophy” and “the rules or standards governing the conduct of a person or the members of a profession.”

In the context of court interpreting, a code of ethics “protects the interpreter and lessens the arbitrariness of his or her decisions by providing guidelines and standards to follow” (S. Neumann Solow, *Sign Language Interpreting: A Basic Resource Book*, revised edition (Silver Spring: Linstock Press, 2000, p. 50).

## Preface

This manual is intended to inform interpreters of their professional and ethical responsibilities so that they are better able to deal with the difficulties that commonly arise in matters involving non-English-speaking parties in the judicial system.

It also serves as a reference and springboard for discussion in conjunction with the Judicial Council Ethics Workshop, which is provided as an integral part of the education and certification or registration of court interpreters in the State of California. In addition to the regulations and recommendations provided here, it is important to note that different courts have their own rules and ways of conducting business. It is the interpreter's duty to learn and follow these rules as well. In the courtroom, the judge is the final arbiter of what is appropriate. The more prepared and informed you are about professional practices and the purpose of established norms and principles, the more you, together with all officers of the court, will be able to further the interests of justice.

This manual is based largely on the rules and principles set forth in rule 2.890 of the California Rules of Court ("Professional conduct for interpreters", see appendix A); California Standards of Judicial Administration adopted by the Judicial Council of California for interpreted proceedings (Standard 2.10 and Standard 2.11; see appendix C); the *Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts* (see appendix D) and W. E. Hewitt, *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, Publication R-167 (Williamsburg, Virginia: State Justice Institute, 1995).

## Representation of Qualifications

*An interpreter must accurately and completely represent his or her certifications, training, and relevant experience.*

—California Rules of Court, rule 2.890(a)

The Judicial Council has established specific categories of court interpreters as well as procedures for qualifying interpreters. The Judicial Council directly certifies and registers *spoken-language interpreters*:

- A **certified** interpreter is a spoken-language interpreter who has passed the Bilingual Interpreting Exam and fulfilled the corresponding Judicial Council requirements. Currently, there are Court Interpreter Certification Examinations for 12 of the 14 designated languages: Arabic, Eastern Armenian, Cantonese, Khmer, Korean, Mandarin, Portuguese, Punjabi Russian, Spanish, Tagalog, and Vietnamese<sup>1</sup>.
- A **registered** interpreter is a spoken-language interpreter of a nondesignated language (in which no state certifying examination is offered) who has passed the Written Examination and the Oral Proficiency Exams (OPE) in both English and their non-English language and fulfilled the corresponding Judicial Council requirements<sup>2</sup>.
- A **provisionally qualified** interpreter is an interpreter who is not certified or registered by the Judicial Council in the target language and is appointed by a court to interpret after a finding of good cause and is qualified in accordance with the provisional qualification procedures adopted by the Judicial Council.

Under California Evidence Code section 754(f), the Judicial Council indirectly qualifies American Sign Language (ASL) interpreters through the Registry of Interpreters for the Deaf, Inc. (RID). In the past, it also qualified ASL interpreters through the California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (CCASDHH). The accepted certifications are as follows:

- **“Specialist Certificate: Legal”** issued by the Registry of Interpreters for the Deaf, Inc. (RID)

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<sup>1</sup> Farsi has been designated for certification, the first Bilingual Interpreting Exam will be offered in the Fall of 2016. Even though Western Armenian and Japanese are certified languages, there is no Bilingual Interpreting Exam presently available

<sup>2</sup> Candidates pursuing registered status in one of the languages for which OPE is not available still must take and pass the Written Examination and the English OPE.



## *Representation of Qualifications*

- **“Legal Interpreting Certificate”** issued by the California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (CCASDHH) before October 20, 2006

Information on the certification and registration processes for all languages, including ASL, may be obtained from the Judicial Council at the following web site: [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm).

The Judicial Council provides badges for certified and registered interpreters to wear when on assignment. Interpreters should correctly state their qualifications when asked to do so and provide any paperwork required by the courts relating to their qualifications.

Never misrepresent your qualifications and credentials in order to obtain work. Your reputation and the reputation of the entire profession are at stake.

## Complete and Accurate Interpretation

*An interpreter must use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter must interpret everything that is said during the entire proceedings. When interpreting for a witness, the interpreter must interpret everything that is said during the witness's testimony.*

—California Rules of Court, rule 2.890(b)

The interpreter for any legal proceeding must first take or have on file with the court an oath swearing to “well and truly interpret” that proceeding, or words to that effect. The primary reasons for providing court interpreters for such proceedings are:

- To place non-English-speaking participants in legal proceedings on an equal footing with those who understand English to the extent reasonably possible
- To ensure that the official record of the proceedings in English reflects precisely what was stated in another language by non-English-speaking witnesses, defendants, or other parties authorized to participate in the matter

It is important to remember that the judge and/or jury will be relying entirely on the interpreted version of testimony to draw conclusions about the credibility of witnesses and the relative weight of testimony, as will attorneys in deciding how to proceed with their case. Therefore, you must retain every single element of information that was contained in the original message, in as close to a verbatim form as natural English style, syntax, and grammar will allow. By the same token, the non-English-speaking witness should hear precisely the questions that are asked, without simplification, clarification, or omission. Similarly, defendants who require interpreters must rely on hearing accurate and complete translations of the proceedings in their case in order to effectively assist their attorney in their own defense.

### **Additions**

#### **Embellishments**

It is important never to add anything to or elaborate on the message you are interpreting, not even for the sake of smoothing over choppy delivery by the speaker. Your function as interpreter is not to make any party sound more articulate or logical in the target language (the language into which you are interpreting) than they did in the source language (the language from which you are interpreting). Great caution should be exercised in choosing the appropriate terms and delivery, conserving at all times the speaker's style. If a witness gives a response that is inappropriate to the courtroom setting, such as “uh-huh” instead of “yes,” you should refrain from converting the answer to what may seem to you to be the intended response. You should also abstain from adding polite forms such as “Can you please tell the jury?” when the statement was merely “Tell the jury.” Be on guard not to add

filler words (such as “well”) at the beginning of a witness’s response if they were not contained in the original answer, or to add qualifying phrases such as “I think,” “probably,” etc., if the source language message did not include them.

### **Clarifications**

At times, interpreters feel compelled to add linguistic information perceived to be “between the lines” or implicit in the witness’s response. However, the information transmitted by the interpreter in the target language should accurately reflect only the information received in the source language. When rendering a simple “yes” as “yes, I did,” the interpreter is adding information that was not contained in the original response.

It is also inappropriate for interpreters to provide two possible interpretations of a word used by a witness. For instance, if a witness uses a word meaning eyeglasses, don’t render it as “eyeglasses or spectacles.” Providing multiple interpretations may imply that the witness had hesitated between the two different terms when in fact a single response was stated confidently. On the other hand, if a single word can have more than one meaning in the context in question, indicate so to the court. The judge will typically direct you or the examining attorney to clarify the intended meaning by asking the witness. Keep in mind that it is the attorney’s responsibility to bring out all pertinent information during the examination of witnesses (see “Ambiguities,” below).

As a general rule, the interpreter should remain unobtrusive during courtroom proceedings. Sometimes, however, it becomes necessary to intervene in the proceedings in order to ensure proper communication and an accurate record of the testimony. For the most part, stepping out of the role of interpreter should be undertaken with great caution, as one can inadvertently take on the role of language or cultural expert. Under no circumstances should you act as an expert on matters outside of the realm of interpreting; like any professional, you should refrain from commenting on or interfering in matters that are not within your area of expertise. There are times, though, when because of your linguistic knowledge you are the only one who knows something is amiss. For instance, in some countries, certain segments of the population may use the word “foot” to refer to the entire leg. If this results in confusion not resolved through ensuing testimony, you may momentarily step out of your role and say: “Your Honor, may the interpreter clarify a matter regarding the use of the word ‘foot’ in the source language?” The judge may then direct you to do so, call a side-bar to hear your explanation with the attorneys out of earshot of the jury, or use other means to ascertain the witness’s intended meaning.

If the term in question is an essential part of an answer that others could not possibly understand without an explanation, and if communication begins to break down and you feel you can easily resolve the issue, then intervention by you may be warranted. But if it appears that the attorney will be able to clarify the situation through follow-up questions, you should not take any action.

### **Converting Monetary Units and Units of Measurement**

Under no circumstances should an interpreter become involved in the conversion of units of measurement or currency from one system to another. For instance, if the witness uses the metric system to describe the height and/or weight of an individual, the distance traveled from point A to point B, or the distance between one person and another, the interpreter should simply repeat the figure in English, retaining the unit of measurement used by the witness. If the equivalent units of measurement or currency are essential to the case, the attorneys may bring in an expert or calculate the conversion themselves and offer a stipulation that the court may accept or reject. Retaining the unit of measurement or currency used by the witness preserves the witness's exact testimony for the record.

### **Omissions**

It is not within the discretion of the interpreter to decide which portions of the testimony and proceedings will and will not be rendered into the target language.

### **Editing**

An interpreter has the sworn duty to interpret everything that is said in court during the proceedings, including statements made by the court, a witness, a defendant, or an attorney, and jury instructions. This duty includes rendering questions and answers exactly as stated in the original language and interpreting all objections (see more below, under "Duty to Witness").

### **Third-Person References**

It is common for persons who use interpreters to preface their statements with phrases like "Tell him that . . ." and "Ask him if . . ." rather than addressing each other directly. If they do so, you must not edit out those phrases. If someone repeatedly makes third-person statements, the judge will usually instruct that person on the proper procedure. If not, respectfully ask the judge to assist you.

### **Word Repetition**

Repetition and redundancy are important factors in evaluating witness testimony. You should not add or subtract any words for the sake of clarity or expediency. Thus, if a witness says in the source language, "I, I, I didn't see it," you must convey that hesitation in English by including the repetitions to the best of your ability, rather than simply saying "I didn't see it." If you have a chance to go over the interpreting procedure with the witness before he or she is called to the stand, it would be helpful to point out that it is your duty to interpret everything exactly as it is said, so that the witness does not take this to be derisive in any way (see "Instructions to Parties" under "Assessing and Reporting Impediments to Performance," below). The exception to this practice is in the case of persons who stutter due to a physiological or psychological condition. In that case, the interpreter generally should not imitate the stutter, trusting that the condition will be obvious to the parties in court.

Keep in mind that some languages use repetition as the main way of expressing emphasis or continuous action, as in "she was talking and talking." In such instances, it is acceptable and may be more idiomatically correct to convey the meaning using a corresponding linguistic device of the target language, such as "she kept on talking." Rendering the source

language repetition into the target language in this manner does not constitute a change of meaning or an omission.

However, giving a literal interpretation may not be wrong either. In fact, an intentionally literal interpretation can at times be a prudent solution. Provided the interpretation makes sense, it is often best to keep as close as possible to the original so as to avoid inadvertently putting a different twist on the meaning. As is often the case in interpretation work, it comes down to using your best judgment.

### **Redundancies**

Attorneys' questions and comments are often redundant, often intentionally so. For example, when an attorney says, "Did you watch and observe him at all times?" you should not omit the seemingly redundant verb. This is particularly so in the legal context, where such near-synonyms carry different shades of meaning or for legal reasons may have to be used in combination. You may not be able to account for every synonym used if sufficient distinct equivalents do not exist in your target language. Do, however, resist the inclination to leave out words for the sake of expediency, as you may discover that they did, indeed, have a purpose when it is too late to insert what was omitted.

### **False Starts**

Many speakers, attorneys and witnesses alike, make false starts and then revise their statements. It is especially important in interpreting witness testimony that all such self-corrections be included in the target language version, so that the judge and jury can draw conclusions about the witness's degree of certainty and precision. Never correct any errors made by a speaker, no matter how unintentional they may be, nor how concerned you may be that the mistake might appear to be your own and reflect on your ability to interpret. On the other hand, you may correct your own false starts or "misspeaks," but be sure to preface this with "interpreter correction," so that the record can show that it is you, rather than the witness, speaking.

### **Filler Words**

People often use filler words to gain time to formulate what they want to say or to fill a silence. Attorneys will use words such as "now" at the beginning of their questions, and witnesses will start their response with expressions like "well," "to be honest," "quite frankly." As the interpreter in a legal proceeding, you have the obligation to render into the target language all the filler words used by the speaker; it is particularly important to render them when interpreting witness testimony. Remember that this will help the jury to evaluate the credibility of the witness.

### **Changes in Meaning**

It is common knowledge among interpreters that the meaning of words depends on the context in which they are used. For example, in a will, "issue" means the children of the person making the will, while in reference to a magazine, it means a particular edition.

Cultural context can also lend words unexpected meanings. An American who says "I put it in my boot" clearly means he put an object into his footwear. But a British witness could

mean either that he put it into his footwear or into the trunk of his car. It is therefore crucial to consider the context in which any word is being used in order to ascertain the intended meaning.

If there is any doubt in your mind as to which of several meanings is intended, exercise caution—do not guess. When you have such concerns and need to ask for clarification, it is always advisable to put the term or phrase in question on the record in the language used in court, spelling it for the court reporter. For instance, “Your Honor, the witness has used the Spanish term ‘pinzas’— the interpreter will spell it for the record: P-I-N-Z-A-S—which has several possible meanings” [tweezers, pliers, forceps, clothespins, claws, darts]. The judge will either directly ask the witness the meaning, direct the questioning attorney to seek clarification, or allow you to do so. In the latter case, what you discuss with the witness should be put on the record. For instance, “Your Honor, the interpreter has asked the witness what he meant when he used the word ‘pinzas’ in his reply, and the witness indicated ‘pliers.’” If you are not able to ascertain the meaning readily, report back to the judge. By all means, avoid having a lengthy dialogue with the witness.

### **Register**

When rendering the source-language message into the target language, you must never alter the register, or level of language, to make it easier to understand or more socially acceptable. For instance, if the attorney asks, “What did you observe the subject to do subsequently?” you should not say in the target language, “What did you see him do next?” if more formal synonyms exist. You should not try to bring the question down to the witness’s level. You also should not intervene and say that you do not think the question is understandable to the witness. If the witness does not understand the question, it is his responsibility, or that of the attorney who has called him to the stand, to say so. It is not the interpreter’s job to evaluate and give an opinion on the witness’s ability to understand. (See “California Standards of Judicial Administration, Standard 2.11,” in appendix C.)

It is important to remember that when interpreting a witness’s testimony before a jury, the jury will draw certain conclusions about the witness’s sophistication, intelligence, and credibility based on word choice, style, and tone, among other things. It is your job to faithfully convey all of these factors so jurors get the same impression they would if they could understand the witness directly.

### **Idiomatic Expressions**

Idioms are phrases whose meaning is not merely the sum of the words contained in them. Examples of English idioms are “to jump the gun,” “to face the music,” and “in the dead of night.” You should always strive to render them using an equivalent idiomatic expression in the target language. However, if you are not certain of either the meaning of an idiom or what its equivalent would be in the target language, you may turn to the judge: “Your Honor, the interpreter would like your assistance. The witness has used an idiomatic expression which the interpreter is unable to interpret with certainty other than literally.”<sup>3</sup> If possible, put the expression on the record, spelling it for the court reporter. The judge will

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<sup>3</sup> For an explanation as to why interpreters refer to themselves in the third person, please see page 16.

decide how best to clarify the matter. If the problematic term shows up in something an attorney said, you can ask a question, such as the following: “Your Honor, the interpreter is having difficulty interpreting the expression ‘to jump the gun.’ Could the Court or Counsel help with an example or an equivalent?”

Even veteran interpreters can continually expand their mastery of idiomatic expressions. Listen for such expressions both in and out of the courtroom, and listen to programs and read publications in the languages with which you work. If you do not know what an expression means or how you would interpret it, ask a colleague or check a comprehensive bilingual dictionary.

Colleagues who may also be in the courtroom while you are working from the stand can be of invaluable help when you are perplexed by an expression. Sometimes such help can be discreetly volunteered by them, such as by mouthing the term for you in the target language to prompt your memory or by writing it down and unobtrusively showing it from where they are positioned. If you are completely at a loss, however, you can also ask the judge permission to step down from the stand and quietly confer with the other interpreter. If the two of you reach agreement as to the term, return to the bench and continue with your interpretation. If doubt remains as to the correct interpretation, inform the judge, who will make the necessary inquiries to resolve the problem. In any case, be sure to discuss these possible actions with the court and with counsel before the proceedings commence so as to follow the court’s preferred protocol.

### **Proverbs**

Proverbs are popular sayings or useful thoughts that express a truth based on common sense. There are times when interpreters are faced with the difficult task of interpreting comments that contain these popular sayings. Virtually every culture has a rich tradition of proverbs, some of which do not necessarily correspond exactly with those in another language. What in one country might be expressed as “Don’t sell the fur before you’ve shot the bear” might in another be put as “Don’t count your chickens before they’re hatched.” Try to use an equivalent target-language proverb whenever possible, but only if you are certain that your use of it is correct. If an equivalent proverb does not exist, or you cannot think of it, simply interpret literally, indicating that you are giving a literal translation of a saying. As in the above example, the meaning will often be clear; if not, the judge will usually intervene to resolve the situation.

Interpreters have reason to be proud of their command of colloquialisms, proverbs, and sayings but should always use them prudently. Choosing the wrong target-language saying, or using one incorrectly, could taint the testimony and cause greater harm than not using any at all.

### **Figurative Language**

Figurative language, such as metaphors and similes, express one thing in terms normally denoting another with which it may be regarded as analogous. Examples include “he tore his hair out trying to solve the problem,” or “she was caught red-handed.” Since the primary focus in interpreting is to convey the meaning, not individual words, always try to use the target-language equivalent. If you are unsure, request a moment to check your dictionary or to confer with a colleague. Good bilingual dictionaries contain a surprising number of such expressions. If no equivalent exists, a literal translation may do. Listeners generally recognize figures of speech and will know not to take the expression literally. If in doubt, inform the court that the witness has used a figure of speech not readily translatable and ask if he or she wants you to give a literal translation. The judge or the questioning attorney can then ask the witness what was meant by that phrase.

### **Nuances (Word Choice)**

Nuances of meaning are critical in courtroom testimony. One study found that subtle changes in word choice significantly altered witness recollections of how fast cars were going depending on the verb chosen to describe an accident; for example, when the verbs “hit,” “smashed,” “collided,” “bumped,” or “contacted” were used. Witnesses who were asked when the cars “smashed” tended to increase their estimate of the speed of the cars at the time of the accident and recalled seeing broken glass when in fact there was none. Thus, be very careful in selecting target language terms that accurately and precisely reflect the source language meaning.

### **Expletives (Obscenities)**

If a witness uses foul language or says something that might be damaging to the case, you must not edit out the offending terms; interpret exactly what you hear, conserving the original meaning. Remember that the jurors will make judgments about the honesty and credibility of a witness on the basis of his or her manner of testifying. Jurors should not be at a disadvantage because they do not know the source language. For cultural reasons, obscenities are particularly difficult to interpret directly; a word-for-word interpretation may be meaningless or laughable in the target language. Instead, use the closest dynamic equivalent; that is, the target-language term or expression most likely to be used in the same way and to elicit the same response from listeners.

### **Fragmentary Statements**

Courtroom testimony does not always proceed logically, as if following a script. Witnesses often speak unclearly, perhaps because of educational and cultural limitations, because they have told their stories so many times before that they assume everyone knows what they are talking about, or because the subject matter is so upsetting that they cope by speaking about it only obliquely. For example, a witness may say “I went to the . . . you know . . . and there was . . . it was there.” Such vague and ambiguous statements are difficult to interpret into another language because more information is needed to choose the pronouns, prepositions, and verbs that go with what is left unstated. Nevertheless, you must do your utmost to render a version as fragmentary as the original, without inserting any additional information on your own to clarify the statement.



### **Nonsensical Testimony**

It is important for the interpreter to make every effort to state exactly what the witness said, no matter how illogical, irrelevant, ambiguous, or incomplete it may be. Sometimes, however, this simply is not linguistically possible for lack of context. In such cases, you should inform the court that you need to clarify the statement with the witness before proceeding to interpret it: for example, you could say, “Your Honor, the interpreter is unable to make enough sense of the witness’s reply to adequately interpret it into English.” Under no circumstances, however, should you materially edit, omit, or add to what the witness stated. If the judge directs you to attempt to clarify the reply with the witness yourself, you can report back such as follows: “Your Honor, the interpreter indicated to the witness that the interpreter had not understood the reply, and the witness responded as follows...”

### **Nonresponsive Testimony**

As a court interpreter you have the responsibility of rendering nonresponsive answers given by a witness as accurately as any other response. You should leave it up to the attorneys to make the appropriate motions or requests to the court.

## **Voice Tone and Emotional Overtones**

### **Emotions Shown by a Witness or Counsel**

Triers of fact need to have a clear understanding of emotions such as anger, fear, shame, or excitement that are expressed by witnesses. People convey their emotions not only in words but also in facial expressions, posture, tone of voice, and other manifestations. These nonlinguistic means of expression are very closely tied to culture and language, so when people do not speak the same language they may misunderstand the emotional content of a message. The court interpreter should strive to preserve this element of emotion through moderate voice modulation. For example, when a cross-examining attorney bears down on a witness, your tone should convey that forcefulness, and when a witness answers questions in a timid way, your tone should convey that timidity. However, refrain from any kind of dramatics. Interpreters are not actors and should not become the center of attention. Nor should interpreters speak with no emotional affect or variations in their voice at all, unless that is an accurate reflection of the tone of the witness. The key is moderation. This is particularly important when a witness becomes very emotional, lashing out or bursting into tears. In such cases, let the emotion come through, but attenuate your delivery slightly; do not mimic the witness, especially since you can inadvertently increase the effect of the testimony in doing so. Remember that the judge, counsel, and jury will correlate your interpretation with their own observations of the witness’s behavior.

### **Emotions Shown by the Interpreter**

The jury should judge the credibility of the witness, not take cues from the interpreter. It is imperative that you remain emotionally neutral, expressing only the reactions of the parties for whom you are interpreting. This may be very difficult at times, such as when graphic photographs of crime scenes are shown to a witness, when a witness unintentionally says something funny, or when a witness is not believable. One way to help keep your composure is to try, before the appearance, to obtain information about the case, read relevant materials, and perhaps see some of the exhibits (particularly if they graphically

depict disturbing circumstances). While there are some exceptions, attorneys who understand the demands of interpreting will usually assist you, at least to some extent. In this way you can be psychologically prepared for the testimony and better manage your emotions on the stand.

## **Nonverbal Communication**

### **Gestures Made by a Witness**

Witnesses often use hand motions or gestures to convey what they mean. In some cases these gestures are culturally bound; in others, they are personal mannerisms.

One of the limitations of legal testimony, however, is that it must be verbal in order to be taken down by the court reporter for the written record. Do not reproduce any gestures used by the witness or attempt to replace them with target-culture equivalents. That only complicates matters, potentially mischaracterizing the testimony. Instead, simply interpret the witness's words; for example, the witness, when speaking in the source language, indicates a spot with her finger where she was struck, and the interpreter says, interpreting the witness's words and without further action, "He hit me here." The judge and the jury can see for themselves where the witness pointed.

*Note:* It is up to the attorney—not the interpreter—to describe any physical movement made by the witness so that the transcript will accurately reflect it (for example, by saying, "Let the record reflect that the witness has pointed to her right shoulder"). This also pertains to culturally bound gestures, such as giving someone "the finger" or rubbing thumb and fingers together to indicate "money." Do not verbally fill in the blank. It is the attorney's job to capture that unspoken comment by asking, for instance, "What do you mean by the 'V' gesture that you just made with the index and middle finger of your right hand?"

If the attorney does not notice the gesture or chooses to ignore it, the interpreter should not interject or act as an expert witness except as a last resort and only if the gesture at issue is vital to the testimony. In this case, you may politely inform the judge that nonverbal testimony accompanied the response, or that the witness responded only with a gesture, but do not offer any further information or explanation unless asked to give it by the judge or one of the attorneys. They may prefer to handle it at sidebar out of the presence of the jury or proceed in some other manner. Remember that it is the duty of the judge and attorneys to remain observant. Do not take upon yourself the responsibility of reporting what would not have been pointed out were there no need of an interpreter.

### **Gestures Made by the Interpreter**

It cannot be emphasized enough that you must refrain from making any gestures or hand motions that may tend to taint the testimony of a witness, such as rolling your eyes in frustration when a witness gives a nonresponsive answer or shrugging your shoulders to indicate it is not your fault that the witness gave only a partial answer to the question, let alone anything that might convey your judgments as to the veracity of the testimony. You must remember at all times that the role of the interpreter is to assist professionally,

neutrally, and unobtrusively so that the proceedings can take place as if no language barrier existed. You must strive to attract as little attention to your presence in the courtroom as possible. It is the duty of the trier of fact to evaluate the witness's testimony and credibility based on the witness's manner and conduct at trial, not the interpreter's.

### **Ambiguities**

As discussed in "Clarifications," under "Additions," above, the meanings of many words can change depending on the context. Sometimes the meaning of a word is ambiguous because the listener does not have enough contextual information. The English pronoun "you," for example, can be either singular or plural, and the speaker may not clearly indicate which meaning is intended. Such terms may require more information to be interpreted from English into another language. Another example is the English word "child," which can refer to a boy or a girl, son, daughter, or minor. In certain other languages, both the gender and any implied kinship have to be specified. As an interpreter, you must clarify any such linguistic ambiguities before interpreting. Be alert to ambiguities that commonly occur in English, and be prepared to ask for more information when you need it.

### **Conservation or Clarification of Ambiguities**

Ambiguities may be intentional, however, and you should strive to retain them if the target language allows. It may be possible, for example, to interpret the question "Where did the car hit you?" into the target language without clarifying whether the questioner is referring to the location of the accident or the part of the witness's body. Similarly, an attorney might ask a deliberately ambiguous question such as "Did you have anything to drink in the car?" In addition to being taken as referring to alcoholic beverages specifically or beverages in general, the question could be understood as "Did you drink anything in the car?" or "Was there anything to drink in the car?" If you cannot translate something without clarification of the ambiguity, you should inform the court.

Remember that it is not the interpreter's job to correct an attorney's questions. If a question is vague or ambiguous, it is up to opposing counsel to object. If there is no objection, interpret the question as indicated above. Unless the problem causes a serious linguistic roadblock, you should not interfere.

### **Double Negatives**

Experienced interpreters know that a question containing a double negative can confuse the witness and elicit an ambiguous answer. For example, if the attorney asks, "Isn't it true that you didn't know Mr....?" a negative answer may mean "No, it is not true" or "No, I didn't know Mr...." It is not your responsibility to tell counsel that the question will elicit an ambiguous response or to clarify the answer by adding any element not contained in the original reply. You must render the question in the witness's language as asked in the source language and interpret the witness's reply as simply and briefly as it was given. Opposing counsel has the ability to object to the form of the question, or the judge may instruct counsel to rephrase the question.

If you do not understand the question, ask to have it read back by the court reporter so you can mentally process it again. Upon read-back, the attorney may even admit to not understanding his or her own question and offer to rephrase it.

Note that some double negatives cancel each other out and can be rendered as if there were no negative at all. A prime example can be found in jury instructions. The phrase “it is not uncommon for two people witnessing the same event . . .” would be acceptable if rendered affirmatively as “it is common for two people . . .” Extreme caution is recommended in making these changes, which should be limited only to situations in which the target language does not have an equivalent linguistic structure.

## **Read-Back and Repetition of Question or Reply**

### **Read-Back**

If during witness testimony you do not understand a question asked by counsel, or you have forgotten part of the question or exactly how it was posed, you should request to have the question read back by the court reporter or repeated by the attorney. Whenever any problem arises as you are interpreting, the proper protocol is to address the judge, indicate the problem, and obtain permission to resolve it. For example, you may ask, “Your Honor, may the interpreter have the question read back from the record?” Sometimes only one word is not clear and having the entire question restated would be unnecessary. In this case, simply say, for example, “The interpreter would like to clarify: was the last part of counsel’s question ‘did’ or ‘didn’t go to the store’?”

### **Repetition**

The requirement to interpret everything that is said in the courtroom places a great demand on the interpreter. Sometimes you may not know a term that is used or you may not hear what someone has said. Do not guess at what might have been meant, bluff your way through, gloss over problem terms, or omit unclear portions of a message. Always inform the judge of the situation and request permission to resolve it. If you are unsure of what a witness has said, either because you did not hear or because you have been unable to retain the entire utterance, ask the Court’s permission to have the witness repeat the answer: “Your Honor, the interpreter would like to request that the witness be instructed to repeat her answer.”

## **Errors**

### **Attorney Errors**

It is not unusual for attorneys, concerned about the development of a case and thinking about the next series of questions, to misspeak, such as by addressing a witness by the name of another witness, calling them by their client’s name, or stating an erroneous date when asking a question, particularly when there are several dates involved. In your interpretation, you must never correct an erroneous name or date. Also, it is generally not advisable to bring the error to counsel’s attention. Your duty is to render the name and/or date exactly as stated in the question. The error will eventually be discovered, and the record will clearly reflect what caused the confusion.

If you are assisting with paperwork such as rights waivers and minute sheets and you believe there is a discrepancy between what is written and what you have heard and interpreted in court, advise the defendant's attorney. If the defendant is proceeding "in pro per," that is, without an attorney, let either the district attorney, the bailiff, or the court clerk know of your concern. If you interpreted something to the defendant other than what will go down in the court record, whether it was due to your error or a clerical mistake, it must be cleared up without delay.

### **Errors by Colleagues**

If you hear an interpreter for a witness make a *serious material* mistake, such as omitting or changing a significant part of the witness's testimony, first see if the interpreter or one of the attorneys questions it. If not, it is in everyone's interest that you interject without delay but as tactfully as possible to avoid any ensuing confusion. One way to do this, if you are interpreting for the defendant, is to quietly advise the defendant's attorney that you are concerned about a point of interpretation. The attorney can ask for a moment to confer with you and then decide whether and how to raise the point to the judge and opposing counsel.

In the alternative, you can politely request that the interpreters have a moment to confer. Upon obtaining permission from the judge, approach your colleague and in a private whisper respectfully say what you heard. If your colleague agrees there was an error, simply return to your place and allow your colleague to then make the appropriate correction on the record. If there is any doubt or if you disagree, the next step is to request a sidebar with the judge and both attorneys. In fact, the judge may prefer to call both interpreters and the attorneys immediately to a sidebar to resolve the issue out of the presence of the jury rather than to have the interpreters confer privately.

Such interruptions require great tact and should be rare, limited to truly serious errors.

### **Correction of Your Own Errors**

If at any point you realize that you have made a *substantive* error in interpretation, you should correct the record as soon as the error becomes apparent to you. For instance, if it becomes evident through subsequent testimony that a word with several possible meanings was misinterpreted, state this to the judge at the first opportunity. For example: "Your Honor, because of subsequent testimony, the interpreter has become aware that the term 'the crack of thunder' in the witness's earlier response should actually have been interpreted as 'the crack of a gunshot.'"

If at some point you doubt the correctness of your interpretation on a significant matter, dispel any doubt by asking the judge for a moment to check your dictionary, confer with a colleague, or solicit clarification from the witness or attorney. If a linguistic issue is particularly delicate or contentious, a sidebar may be held so that you and the attorneys can discuss it with the judge out of the presence of the jury.

### **Clarification of Unfamiliar Terms**

Never guess the meaning of any unfamiliar terms. You should carry a dictionary with you and have it available to consult at the stand. The standard protocol for doing so is to state, “Your Honor, to ensure accuracy, the interpreter would like to consult the dictionary before interpreting a term the witness/attorney has used.” Do not feel pressured so that, for instance, you simply choose the first equivalent you see in the dictionary, and do not feel that by consulting a reference work you will appear to be lacking in skill. If it is an occasional occurrence, the parties should be all the more confident because of your commitment to the clarity of the record.

Dictionaries are handy reference tools but should not be relied on exclusively. If none of the terms listed seems appropriate, ask the court’s permission to inquire of the party who used the problematic term. Remember never to engage in conversation with a witness on the stand without first obtaining the judge’s permission and then reporting what you asked and what the witness replied.

If a second interpreter is present and readily available, such as an interpreter working at the defense table, you may also request permission to consult with that colleague. As long as you conduct yourself in a calm and professional manner, you will retain your credibility and the confidence of the parties who are using your services.

### **Culturally Bound Terms**

Culturally bound terms are terms unique to the culture associated with the language. Judicial concepts, kinship terms, names of foods, and forms of address are examples of culturally bound terms. They pose a particular dilemma for the interpreter because it is difficult to find words in the target language to convey their meaning. If no direct equivalent of a given phrase is readily available in the target language, it is usually best to leave it in the source language and spell it for the record. If there is any confusion, indicate to the judge that the witness has used a term or phrase that does not have a direct equivalent. Do not attempt an approximate translation or volunteer further explanation unless requested to do so by the judge. Generally, the attorney can elicit an explanation from the witness by means of a follow-up question if it is important that everyone understand the term. In many cases, the meaning of the term may not be relevant enough to warrant an explanation.

*Note:* Whenever you use a foreign word or phrase on the record, including proper names, either offer to spell it (“Your Honor, the interpreter can spell the foreign term for the record, if you wish”) or write it down to give to the court reporter during the next break.

### **Repetition of English Used by Witness**

Bear in mind that you are interpreting testimony for the written record and that the court reporter is generally listening only for your voice, not that of the witness. Therefore, even if the witness gives an answer in English or states a name that everyone can understand without needing any interpretation, you must still repeat it for the record.

### **Questions From Witness**

Frequently a witness who does not understand an interpreted question will address a question to the interpreter to clarify the matter. For example:

Attorney:        Now, were you there on that date?

Witness:        Does he mean, was I at home?

Do not take it upon yourself to answer the question on your own; simply interpret the question into English, as you do not want to appear to be conversing with the witness. If this continues, the judge will usually instruct the witness as necessary.

### **Identification of Interpreter's Statements**

When you make a statement on the record in your capacity as an interpreter, it is important to pause when switching roles to make it clear that you are now speaking as the interpreter and are no longer rendering the witness's testimony. In formal courtroom proceedings, it is common practice for interpreters to refer to themselves in the third person so it is clear in the written record that they are speaking in their own capacity and not interpreting the words of the witness. In less formal settings outside the courtroom such as depositions, this is still standard practice, but the interpreter can also simply pause and change his or her tone of voice slightly and then speak in the first person, in this case perhaps gesturing to himself or herself; for example, "I believe the witness was referring to the interpreter."

*Note:* It is the attorney's function to clarify misunderstandings by posing follow-up questions, and the interpreter should not usurp that role. The only situation in which you as the interpreter should take it upon yourself to interpret in order to provide an explanation is when communication breaks down and it is apparent from the questions and answers that false assumptions are being made due to cultural or linguistic misunderstandings. In such cases, you are the only one who has the specialized knowledge and training to realize that a misunderstanding is taking place. In short, be very cautious about intervening in the process.

Additionally, although it may seem more efficient to address questions or comments directly to the counsel, it is best to make it a practice to always address the judge, as this will insulate you from the adversarial nature of the judicial process.

### **Challenges to Interpretation**

Often the interpreter is not the only person in the room who knows both the source language and the target language, and it is easy for people who are not under the severe pressure of interpreting to notice mistakes. Sometimes a challenge comes from an attorney who has prepared the witness and knows what the testimony ought to be. Or it may come from someone who is, or thinks he or she is, more familiar with the particular terminology or better able to hear or understand the speaker.

If you are challenged, respond to it in a polite and professional manner; do not regard it as a personal affront. If you agree with the correction because you were wrong, then you should correct the record. If the proposed correction is unacceptable, you should stand by your original version. You may explain your reasoning if necessary, but do not be defensive. For instance, you could say, “In another context that would be correct, but not in this instance.” It is part of the attorney’s function to watch for bases upon which to object to testimony (or the interpretation of it) that does not favor the party he or she represents, and challenges of the interpretation are part of the normal course of events in the courtroom. In the end, the judge has the final word, and you must abide by it.

### **Duty to Witness**

When interpreting for a witness who is not a defendant in the case, you are under the same obligation to interpret simultaneously for the witness all objections and other statements made during the proceeding as you would be during the defendant’s own testimony. Keep in mind that the interpreter’s presence is not only to benefit the attorneys, the court, or the jury, but also to place non-English-speaking witnesses in as close to the same position as the one they would be in if they spoke and understood English. However, there may be times when the court instructs you not to interpret the objections (or other things said in court) for the witness. There may even be times when, because of an objection, the judge will instruct you not to interpret any part of an answer that the witness gave regarding which an objection has been sustained. If either of these circumstances occurs, you must comply with the request, keeping in mind that the judge has the last word in the courtroom.



## Impartiality and Avoidance of Conflicts of Interest

*An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias. . . . An interpreter must disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter is a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case . . . . An interpreter must not engage in conduct creating the appearance of bias, prejudice, or partiality. . . . An interpreter must not make statements to any person about the merits of the case until the litigation has concluded.*

—California Rules of Court, rule 2.890(c)

### **Conflicts of Interest**

A conflict of interest may exist when the interpreter has a personal interest in the outcome of the case or is a friend or relative of one of the litigants. Whenever these conditions exist, you should not accept the assignment. To accept it can harm your professional reputation and create a bad image for the entire profession.

If, after you have accepted an assignment, you become aware of an actual or apparent conflict of interest, you should immediately inform the court, with a statement such as “Your Honor, the interpreter feels he/she may have a potential conflict of interest. Would you like me to explain or approach?” The judge will determine whether a conflict of interest exists and whether you should be replaced.

### **Appearance of Bias**

Even though you may not feel that you have any bias or partiality, if other people perceive that you are biased or partial, your role as interpreter may be compromised. Strive to avoid any behavior that might lead others to think you favor one side or the other in a case—for example, commenting on the case, giving advice, or engaging in conversations in court in a language that others do not understand.

In your capacity as court interpreter, you may be the only bilingual person in the courtroom. You, as the official interpreter, bear a very important responsibility, as other people are depending on you to understand what is being said. This is a relationship of trust that must be preserved at all costs.

### **Parties in the Case**

When you are interpreting for the defendant, you may be sitting next to each other for days or even weeks at a time, and there will inevitably appear to be a bond between you. Similarly, you may be interpreting a given witness’s testimony for a long time. Even though you may feel no affinity with the defendant or witness, that person’s testimony, as

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interpreted by you, may have less credibility with jurors or other parties if they feel that you might be coloring the testimony or interpreting it in a biased way. That is why it is so important for you to refrain from having any extended independent conversations with the parties for whom you are interpreting during the pendency of the case.

Avoiding such conversations, however, is not easy. Non-English-speaking parties are naturally eager to talk with the interpreter—the one person in the courtroom who can understand them and is part of the judicial system. The best solution is prevention. When you introduce yourself and briefly explain how the interpretation will work, mention that all concerns should be addressed to the attorney, not to you, because you must repeat aloud in English everything that he or she says in the non-English language. Also, whenever there is a pause in the proceedings, put a little distance between you: during recesses, go for a walk; during sidebars between the attorneys and the judge, take a step back if you are interpreting at the witness stand; and at the defense table, if it is awkward to stand up or step away, you can hold up your hand in a polite “not now” gesture if the defendant turns to speak to you.

In no case should you talk one-on-one with a witness or defendant about the legal aspects of the case, nor should you allow either of them to tell you his or her story of what happened. You can get the basic allegations at an appropriate moment by asking the clerk or attorney what the charges are or by reading the calendar or documents which may be otherwise available to you. In the absence of this, you might review paperwork the defendant may have brought to court so you can familiarize yourself with the general circumstances of the case, remaining wary that you do not open the door to inappropriate discussion about the case.

### **Prior Involvement in the Case**

The appearance of a conflict of interest may arise if the interpreter has had prior involvement in the case. For example, there may be the appearance of a conflict of interest if the interpreter serves as the defense interpreter for the preparation of the case and then subsequently serves as an interpreter for the prosecution’s witnesses. The interpreter should notify the judge of the potential conflict. If the judge determines that a conflict exists, the defendant, and not the attorney, would have to waive the conflict in order for the interpreter to continue in the case. The key is disclosure of your prior involvement as soon as you can, once you discover it: for example, “Your Honor, the interpreter currently assigned for the defendant would like to inform the court and counsel that he/she previously assisted the district attorney in an interview with the victim.” The decision will then be made as to whether you may or may not continue in your current role.

### **Gifts and Gratuities**

Never accept gratuities or gifts of any kind from anyone for whom you have interpreted, whether in criminal or civil court matters. If such a gift is offered, explain politely that you are paid by the court or whatever entity hired you and are not allowed to accept any gifts from any of the parties in the case. This does not preclude you from collecting your interpreting fees in a civil case in which you were directly contracted by one of the parties or an interpreting agency.

### **Interpreter Neutrality**

While certain information or circumstances can move interpreters to pity or anger, they must, like jurors, not let themselves step out of their role as neutrals. As an interpreter, you are not to be an advocate for non-English speakers. Furthermore, you must not make value judgments about the language or demeanor of the parties for whom you interpret. If the witness uses incorrect grammar or vulgar speech, you should interpret the testimony just as faithfully as you would that of any other witness, without conveying by your tone or expression that you consider the testimony improper or untruthful. If a witness or defendant dresses or behaves in a manner inappropriate for court, you should leave it to the defense or prosecution attorney to remedy that if they choose, rather than taking it upon yourself.

To reinforce the neutrality of interpreters, some trial judges explain to all parties and potential jurors that the interpreters are nonpartisan and should not be considered as part of either the defense or the prosecution, no matter for whom they provide interpreting services during the case. The presence of two or more interpreters using electronic interpreting equipment at a multi-defendant trial is a particularly effective way of setting interpreters apart as having a neutral role in the proceedings. Ultimately, however, your professionalism and demeanor will convey this crucial aspect of your work most effectively.

### **Personal Opinions**

During the course of their daily duties, interpreters have the opportunity to interact with various attorneys and judges and to see and hear them argue their cases or pronounce judgments and findings. It is difficult for an interpreter not to form opinions about attorneys or judges. It is also difficult for an interpreter not to form opinions regarding the guilt or innocence of defendants or the credibility of witnesses. It is of utmost importance for you to remain neutral and try to avoid developing opinions about such matters. It is highly inappropriate for you to express any such opinion in public, to members of the bar, or to defendants, victims, witnesses, or their family members. Even among interpreter colleagues where it is common to discuss terminology learned and challenges faced in one's work in order to develop professional skills, it is imperative to avoid giving opinions as they can easily become distorted and made public.

### **Opinions Sought by Counsel**

There may be times when an attorney in the case will approach you for comment regarding the credibility of a witness, asking for an assessment of his client or your sense of the case in general. The attorney might even ask you to rate his or her own performance during arguments. Although the attorney may simply be seeking a lay opinion to gauge the jury's potential reactions, you should politely avoid expressing an opinion so that you do not compromise your professional detachment and impartiality. You may reply by saying, "I think it is up to the jury to determine that" or "I don't know how the jury will view that."

### **Opinions Given by Interpreters**

It is tempting for interpreters to share their own views, questions, doubts, and conclusions about cases they are working on or have worked on, with any number of other people. This is because it seems that doing so tends to build camaraderie or garners respect for their experience, or they do so simply to debrief. Nevertheless, you must remain detached and neutral and never offer your personal opinion about any matter related to a case to which you have been assigned as an interpreter. Even after the case is concluded, remember that it is still subject to appeal and any inappropriate comments you make or confidential information that you disclose could have troublesome consequences.

### **Interactions With Members of the Jury**

Sometimes a juror may approach you with a question or comment, often out of curiosity about your work as an interpreter. It is imperative that you avoid interacting with jurors in any way, even about things unrelated to the case. As the judge admonishes them, they are not allowed to speak with you or you with them. The best approach is one of prevention, avoiding places where jurors might be present. If you do encounter a juror who wants to address you, you can politely nod and move on.

After the jury has rendered a verdict, the attorneys may, if they wish, speak to those jurors who are inclined to answer questions regarding the reasons for their decision or lack thereof. Although you may feel you might learn from this, or simply wish to satisfy your curiosity, you should not become involved in those conversations. After all, you are not a party to the case and should not display any interest in the reasons for the outcome. For example, the judge never participates in those inquiries.

### **Interactions With Court and Law Enforcement Professionals**

You may become acquainted with the attorneys, bailiffs, and other court personnel with whom you work every day, and it will be tempting to interact with them during breaks. Any one of these seemingly innocent conversations can lead to a perception of bias. The way to solve this problem is to politely walk away without getting involved in courtroom or hallway conversations. After the trial is over, or outside the courthouse, you are free to resume whatever kind of relationship you like with them. In the event a situation occurs where there is a conflict of interest, the court needs to be informed.

## **News Media and the Public**

### **News Media**

Interpreters are sometimes assigned to high profile cases that attract a great deal of media attention because of the nature of the case or the personalities involved. The media, in their efforts to get information not otherwise available, may try to interview the interpreter. Rule 2.890(d) of the California Rules of Court states: “An interpreter must not disclose privileged communications between counsel and client to any person.” You must never agree to an interview or make any comment to the media about a pending case. In response to any query, a simple “No comment” will do.

If a reporter tells you that he or she is simply interested in asking you about interpreting techniques, it is still best to recommend a colleague not involved in the case rather than

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offer your own comments. Rule 2.890(c)(4) states that an interpreter must not make statements to any person on the merits of a case until the litigation has concluded. Even after a verdict is rendered, the case could be appealed. You are under the continuing duty not to discuss it in any way until a final decision is made. In addition, you may not disclose confidential attorney-client communications even after litigation has concluded.

In addition to preserving the integrity of the case and protecting all parties, these rules also spare you from getting embroiled in any unnecessary controversy. As you know, even innocent comments can be taken out of context and distorted in the media, jeopardizing your professional reputation and ability to continue interpreting in the case.

### **The Public**

Court proceedings are usually open to the public, except for matters such as dependency court and juvenile delinquency proceedings or closed sessions from which the public has been specifically excluded. The public attending court proceedings may approach you to inquire about cases before the court. As a general rule, refer them to the bailiff or the attorney handling the case. Courteously but firmly avoid engaging in any discussion, especially regarding your personal opinions about the case.

## Confidentiality

*An interpreter must not disclose privileged communications between counsel and client to any person.*

—California Rules of Court, rule 2.890(d)

You should keep in mind at all times that any case information gained by you during the course of your daily interpreting duties is confidential. Whether you participate in the preparation of a case by the defense or the prosecution, such as interviews with witnesses, you must not reveal to anyone the nature of the communications you interpreted, although the scope of confidentiality is somewhat different for each of them.

### **Attorney-Client Privilege**

It is a long accepted principle of our legal system that anything said between a client and his or her attorney is to be kept confidential. If you interpret an attorney-client conversation, you are bound by the same confidentiality rule, even after the litigation has concluded. Additionally, you may not be used as a witness against the defendant regarding anything that was said, read, or heard by you as the interpreter for attorney-client conferences.

### **Prosecutor-Witness Interviews**

Although the same attorney-client privilege described above does not apply to interpreted communications between prosecutors and their witnesses, as a matter of public trust, an interpreter should not reveal to anyone the contents of such communications. If you are ever called upon to testify about such matters, you should inform the court of your duty to keep the information confidential. Unless ordered by the court to break that confidentiality, you should make every effort to avoid doing so.

For this reason, most prosecutors ensure that a third party, usually an investigator or a victim services advocate, is present during interviews with their witnesses. Thus if there is ever a reason for anything said in such interviews to be divulged, the interpreter need not be called upon to do so.

### **In Camera Hearings**

You may be called upon to interpret during in camera hearings, which are held in a place not open to the public, such as the judge's chambers. The official record of those hearings is sealed and does not form part of the public record. You are bound by your professional ethics to respect the confidential nature of those proceedings and reveal nothing regarding the contents of the hearing.

### **Grand Jury Proceedings**

Grand jury investigations are of such a secret nature that even when an indictment is made, the courtroom must be vacated. Only the judge, the prosecutor handling the case, and the grand jurors remain in the room. Interpreters are occasionally called upon to interpret for witnesses who have been called to testify before the grand jury. Again, you must reveal nothing to anyone regarding anything you hear during those investigations.

### **Juvenile Proceedings**

Juvenile court matters are subject to particularly strict rules of confidentiality. With the exception of matters in which juveniles are charged as adults, both delinquency and dependency proceedings involving minors are presumed closed to the public, although, for various reasons, the judge can open the proceedings to certain people. Be especially aware of the need to respect these confidentiality requirements, being careful to immediately return any written materials you are asked to interpret and to avoid discussion of the case other than as a necessary part of your interpreting duties.

### **Evidentiary Materials**

Interpreters sometimes see or hear evidentiary materials long before they are presented in open court and admitted into evidence for the jury's consideration. These materials may cover a wide range of items from booking photographs to audio, video, or digital recordings. You should not comment to anyone regarding the contents of these materials, for doing so may jeopardize the due process or privacy rights of the parties or the outcome of the case, including causing a mistrial.

If you are asked to translate documents or recordings, you should approach the task entrusted to you with the same care and professional considerations you use when interpreting in court, such as accuracy, completeness, and register. Timeliness in the delivery of any transcription and/or translation entrusted to you is of the utmost importance.

You may be called upon to testify about your translation work and your qualifications to perform it. The Judicial Council does not test or certify an interpreter's ability to perform written translations. Certified and registered interpreters may be qualified to provide written translations of documents, but qualification would be based on something other than the court interpreter certification or registration. For translation services, courts should call upon individuals who are certified to translate documents.

### **Written Translation of Documents**

As a court interpreter you may be responsible for the translation of written documents. You must respect the confidential nature of the duties you have been assigned and not comment on the contents of the material you are working on. These documents often are material evidence that has not yet become public record and may, at some point, be used in court. It is customary to ask colleagues for advice on terminology, but be sure that those persons understand that maintaining confidentiality is expected of them as well.

**Transcription and Translation of Tapes (Audio and Video)**

Tape transcription and translation require highly specialized skills and equipment. Such assignments should not be accepted unless the interpreter is qualified and equipped to carry out the tasks to the highest professional standards. It is a laborious, tedious, time-consuming, and exacting task. Interpreters frequently undertake this responsibility without being fully aware of the complexity of the process or the material to be transcribed. You should always ask to listen to or watch the recording before making a commitment. The length and quality of the recording and the number of people involved in the conversation are major factors in the difficulty of the transcription. Body wires frequently pick up extraneous conversations and sounds that interfere with the audibility of the parties. Audiotapes take approximately one hour per minute of recorded speech to transcribe. Videotapes take twice as long. The advent of digital recordings has made transcription considerably easier, but little can help if the source material is poor.

Attorneys may delay requesting a transcription/translation to avoid a costly process if the case settles. You may, therefore, have to press for a realistic deadline for delivering such vital evidence.



## Giving Legal Advice

*An interpreter must not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.*

—California Rules of Court, rule 2.890(e)

The boundaries of the interpreter's role preclude dispensing legal advice or providing legal representation. These functions fall strictly within the purview of attorneys. An interpreter's sole responsibility is to serve as a medium of communication.

### **Questions by Defendants**

As with any witness, if a defendant is testifying, you should interpret aloud any questions he or she asks (even if they are spoken in quiet voice), so that no one in the courtroom gets the impression that there is anything inappropriate about your conversation.

Questions asked off the record pose a subtler problem. If a defendant asks questions of you in the middle of a court proceeding, you should convey the question to his or her attorney. For long proceedings when you and the defendant are seated next to each other at the defense table, consider prearranging a signal you can give the defense attorney to communicate that his or her client has a question. Either the attorney or you can politely alert the judge to please momentarily suspend the proceedings so that you can quietly interpret the colloquy between the two without missing whatever else is happening in the proceedings at that moment.

Sometimes defendants have questions during shorter proceedings when they either have no attorney or the attorney is not standing nearby. In that case, you can politely advise the judge that the defendant has a question.

You do have a certain amount of discretion with regard to questions that are asked of you. There would be nothing objectionable to your answering general questions such as hours of operation and location of departments in the hall of justice, or matters that were stated in open court, including admonitions given by the judge. Just be sure that the information you give is accurate, so that you don't, for instance, give an incorrect date for a future court proceeding and thus cause someone to miss an appearance.

However, it is easy to slip from giving an innocuous reply to offering legal advice. As a general rule, practice prevention to avoid being asked for legal advice. For example, when you introduce yourself, you can point to your official interpreter's badge and say, for example, "My name is . . . I will be interpreting for you today. I am not an attorney. If you have any questions, I will be happy to interpret them for your attorney." In addition, minimize time alone with the defendant. During recesses, politely excuse yourself and step away from the defendant.

### **Questions by Witnesses**

After being interviewed by counsel through an interpreter, witnesses may want to engage in conversation with the interpreter, either about the circumstances of the case or the consequences of testifying. It is not the interpreter's role to discuss the case with or answer questions asked by witnesses other than about the interpreting procedure or matters that are of general knowledge. Counsel should be advised of any questions or misgivings expressed by the witness, or the witness should be referred to the attorney who called him or her.

Whenever you are with any witnesses outside the courtroom setting, try to have someone else present, be it an attorney, a support person, or an investigator, to avoid having to deal with questions or comments yourself.

### **Questions by Family and Friends of Defendants or Witnesses**

Relatives or friends of defendants or witnesses are often present in court and may ask the interpreter for information about the charges, the proceedings, consequences, or possible options. They also may want to provide you with information about the case. Your best approach is always to refer them to counsel and avoid providing information. Remember that it is the attorney's role to determine what and how much information should be provided to others. This will also insulate you from becoming responsible for the accuracy of information provided and from unwittingly creating a conflict of interest or situation prejudicial to one of the parties.

### **Referrals**

If a party is not represented by counsel, you should neither express any opinion as to whether or not an attorney is needed nor refer the party to a specific attorney. To do so would compromise your professional neutrality. If this issue arises in a criminal case, you may refer the party to a local referral service or to the Public Defender's Office. In civil cases, for which public defenders are not assigned, you may refer them to a local referral service. In neither situation do you have any obligation to do so, however.

## Professional Relationships

*An interpreter must maintain a professional relationship with all court officers, attorneys, jurors, parties, and witnesses.*

—California Rules of Court, rule 2.890(f)

### **Interpreter as Officer of the Court**

There are two basic reasons for having an interpreter present in a court case: (1) to enable the defendant to understand the proceedings and (2) to enable the court to understand all non-English speakers who address the court. Therefore, your “clients” may be any of the participants in the court proceeding: the defendant and defense counsel, the prosecution, the judge, the jurors, the clerk and other court personnel, and all witnesses who testify. No matter for whom you are interpreting, you are an officer of the court, a neutral participant in the process. Avoid being drawn into the mentality of being either on the prosecution or defense “team.”

### **Unobtrusiveness**

As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process. You should not engage in theatrics, drawing more attention to yourself than to the witness by exaggerating or changing the emotions expressed by the witness. As stated previously, you should avoid personal displays of emotion, subjective involvement, or social conversation with parties in the case.

Although it is important for you to establish rapport with the people for whom you are interpreting, you should maintain professional detachment. One way to convey this is to call people by their last name (Mr. Jones, Ms. Smith). If there is a formal form of address in the target language (for example, “usted” in Spanish for “you”), use it at all times, regardless of the age or status of the witness or defendant. Do, however, observe the cultural norms of the target language in maintaining this formal behavior. In addition, there may be circumstances in which using the informal form of address would be most effective, such as with interviews of young children who might otherwise feel intimidated.

*Note:* If an attorney addresses a witness by his or her first name, or treats the witness informally in some other way during questioning, you should not change your interpretation of the question to make it more formal or polite.

## Continuing Education and Duty to the Profession

*An interpreter must, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter should seek to elevate the standards of performance of the interpreting profession.*

—California Rules of Court, rule 2.890(g)

It is imperative that you have a solid grounding in every aspect of your working languages and continually endeavor to upgrade your skills. It is difficult to predict what will come up during the course of legal proceedings, from unusual slang and dialects, to complex forensic evidence, to archaic literary references. Interpreters must both constantly increase their vocabularies and resources and expand their abilities in retention, concentration, and delivery.

In addition to meeting exacting standards of interpreting, interpreters are also expected to conduct themselves in an ethical and professional manner.

### **Continuing Education and Work Requirements**

The Judicial Council has established continuing education and work requirements for interpreters to maintain their certification or registration. *Compliance Requirements for Certified Court Interpreters and Registered Interpreters of Nondesignated Languages* are attached in appendix D and may also be accessed on the Court Interpreters Program (CIP) Web site at <http://www.courts.ca.gov/2693.htm>.

### **Continuing Education Requirements**

In the first compliance period, certified spoken language interpreters and registered spoken language interpreters must complete the Judicial Council Ethics Workshop, plus a minimum of 12 hours of approved instructor led Court Interpreter Minimum Continuing Education (CIMCE) activities and a maximum of 12 hours of non-instructor led education, for a total of 30 hours of education. All of the educational activities must be completed and approved (assigned a CIMCE number) within the compliance period.

### **Work Requirements**

For all compliance periods, all certified and registered interpreters must submit proof of 40 law-related professional interpreting assignments for every compliance period; although registered interpreters of languages not often needed by the courts may be eligible for an exemption from this requirement.

American Sign Language court interpreters' continuing education and work requirements are currently established and administered by the Registry of Interpreters for the Deaf, Inc. (RID).

Interpreters whose status has lapsed must, upon receiving a court-related interpretation request, advise the requesting party of their actual current status. Unless and until their

status is properly re-established, the interpreter must be provisionally qualified for good cause by the court in order to be allowed to perform court-related interpretation

Since certification and registration renewal requirements may change from time to time, be sure that your information is current by checking the Court Interpreters Program (CIP) Web site at [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm) and by carefully reading the materials e-mailed to interpreters in each compliance period.

### **Familiarity With the Case**

For the sake of complete accuracy, it is important to try to learn some of the facts of your case before proceedings begin. You may do this by asking the appropriate party for basic information or for permission to review documents from their files such as police reports and transcripts of preliminary hearings. For a major trial it would be ideal to do this in advance, so that you can obtain the appropriate technical references and familiarity with the circumstances and parties in the case. However, given the realities of day-to-day courtroom activity this may not always be possible. Work with court personnel in the spirit of cooperation so they can understand your need to prepare in order to properly perform your duties. In the case of infractions and misdemeanors, you may obtain information from the calendar, from the clerk (being sensitive not to interrupt his or her work), or by looking at the defendant's copy of the citation. For the reasons previously given, be careful not to engage in extended conversation with the defendant, witnesses, or their friends and family members about the case.

### **Technical Terminology**

Lengthy evidentiary proceedings, such as preliminary examinations and trials, require considerable preparation on the part of the interpreter. Because it is difficult to know and remember the tremendous scope of technical terms that might arise during testimony, it is advisable to work with case attorneys and other court personnel to anticipate the subjects that may be covered. Bring appropriate dictionaries to court with you. Ask court reporters if they have specialized glossaries that expert witnesses may have provided for their reference. Seek explanations from persons familiar with areas that cause you difficulty. Most importantly, if you lack competence in a particular area, do not attempt to conceal it for fear that you will be considered inadequate. No interpreter can be expected to have mastered all areas of specialized terminology. (See "Disqualification," below.)

### **Jury Instructions**

Unless otherwise agreed to by the judge, attorneys, and defendants, all jury instructions must be interpreted in their entirety for defendants. Jury instructions present highly technical and complex legal concepts, often expressed in archaic or obscure wording. Moreover, since jury instructions are read from prepared text, the pace is faster, there are fewer pauses, and intonation is less natural than in normal speech. All of these factors combine to make the process of jury instruction one of the most difficult types of court proceedings to interpret. Because of this, it is essential not only to know how to interpret standard jury instructions, but to have a firm grasp of the concepts behind them. You will

then be able to readily adapt to any variations that may arise when the judge, prosecution, and defense counsel decide on final instructions.

*Note:* It is appropriate and advisable to ask the court for your own copy of the final instructions before they are read to the jury. Remember, however, to return the instructions to the court once you finish interpreting them.

### **Disqualification**

In addition to disclosing potential conflicts of interest due to personal acquaintance with the parties or substantial prior involvement with the other side in a case, there are other times when you may be well advised to request to step down from your duties. One such case is if your own past or current life experiences are such that they would seriously interfere with your ability to interpret clearly and without improper emotion on a particular case because of the subject matter. Another is if you find that you have been assigned to a case that is beyond your abilities, be it due to the particular vocabulary being used or the speaking patterns of the person for whom you are interpreting.

In such cases, simply approach the judge or your coordinator and ask to be replaced by an interpreter with the required expertise. Doing so is far better than subjecting yourself to continuous challenges by counsel and the possibility of being disqualified by the court. In addition, you will reduce the risk of being directly involved in a situation leading to a mistrial or of having the case appealed on issues of interpretation. While you have a responsibility to adequately prepare for the matters you will be assigned, it is not reasonable to expect to have full command of all possible regional dialects and areas of terminology without notice.

### **Use of Technology**

Courts are increasingly adopting state-of-the-art technology, some of which may affect the work of interpreters. From electronic transmitters to real-time court reporting, interpreters should use technology to their best advantage. To the extent you do so, it is your responsibility to understand and properly manage any equipment you use in the course of your work. Be sure that any equipment you use does not interfere with the activities of the court, and that you do not use anything belonging to the courts, such as computers or copiers, without permission to do so.

### **Relations With Colleagues**

While it is not a matter of ethics, *per se*, there is much to be gained from fostering a spirit of good will with your fellow interpreters. Refrain from maligning others, which tends to taint the image of the group as a whole. This does not mean that you should refrain from addressing serious concerns regarding the behavior of colleagues within the context of interpreting, but be aware of your motivations and the manner in which you address such concerns. The profession is best served by having its members maintain both high expectations of and due respect for each other.

**Professional Organizations**

Professional associations provide educational workshops and programs, forums for the resolution of interpreter issues, sources for publications, and opportunities for interpreters to share their experiences and knowledge as well as lend mutual support.

## Assessing and Reporting Impediments to Performance

*An interpreter must assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter must immediately disclose that reservation to the court or other appropriate authority.*

—California Rules of Court, rule 2.890(h)

### **Interpreter Fatigue**

As an interpreter, you have an obligation to ask for a break whenever you feel that fatigue is soon likely to interfere with your accuracy. Standard 2.11 of the California Standards of Judicial Administration (see appendix C) provides that, prior to any interpreted proceeding, the interpreter should be given the following instruction, among others: “Inform the court if you become fatigued during the proceedings.”

An interpreter’s role is both physically and mentally demanding and requires an awareness of the proper working environment. An interpreter should strive to maintain conditions that ensure optimum performance and accuracy. Because interpreting is such an exacting task, it is imperative that you remain mentally alert at all times. Judges occasionally interrupt proceedings to give the court reporter a break because they know that having an accurate record depends on having an alert reporter. They sometimes forget, however, that an accurate record also depends on having a well-rested and alert interpreter. Instead of getting to the point of becoming fatigued, respectfully let the judge know that you will soon need a break. Doing so is in everyone’s best interest.

### **Team Interpreting**

When circumstances allow, courts may provide “team interpreting” in extended court proceedings, such as trials and evidentiary hearings, to help prevent fatigue, ensure accuracy, and avoid interruptions to the flow of the proceedings.

By alternating approximately every half hour, two or more interpreters can avoid fatigue—one potential cause of interpreter error—without needing to request a break in the proceedings. The second interpreter can also assist in a number of ways: to help resolve any challenges to testimony interpretation, consult reference materials if a problematic term arises, and fix any technical problems with electronic equipment. (See “Use of Technology,” above.)

Team interpreting also provides one way of managing multiple, sometimes overlapping communications. The Sixth Amendment to the United States Constitution guarantees defendants procedural rights in all criminal proceedings, including the right to confer with their attorney at any time and the right to see and hear all evidence and witnesses presented against them. English-speaking



defendants can easily hear or whisper a comment to their attorney while continuing to listen with one ear to the proceedings going on in the background. Non-English-speaking defendants cannot. They need an interpreter to communicate with their attorney, and they need an interpreter to understand all that is said in open court. If there are two interpreters, one interpreter can be available to interpret attorney-client communications at the defense table while the other is simultaneously interpreting everything said in open court, thus ensuring due process. As a result, the non-English-speaking defendant can function as an English-speaking defendant who is able to confer with his or her attorney and continue to hear and understand the proceedings.

A single interpreter, however, must serve both roles simultaneously (defense and proceedings), ceasing to interpret the proceedings in order to interpret attorney-client communications, and vice versa. If you find yourself in this situation, prearrange with the defense attorney to request a pause in the proceedings whenever the defendant signals a desire to confer.

Arrange team interpreting logistics in advance with your fellow team interpreters and, if possible, discuss them with the defense attorney and the court:

- How often you will trade off
- The availability of the second interpreter for attorney-client communications
- The signal indicating that the defendant wishes to confer with his or her attorney
- Whether and how the interpreters may confer on questions of terminology
- How the court prefers to handle any challenges to the interpretation (for example, in open court, at sidebar, with one or both interpreters)

### **Audibility**

Part of proper working conditions for the court interpreter is the ability to hear everything in the courtroom. If someone is speaking too fast or too softly, if attorneys are facing away from you so that they are unintelligible, if parties are speaking over each other, or if there is constant interference such as loud noise audible in the courtroom, ask for the court's assistance so that the situation can be remedied.

Even if you find yourself repeatedly asking parties to speak more loudly or clearly, do not yield to the temptation to simply skip phrases you cannot hear out of concern that you are interrupting the proceedings too frequently. If there is too much external noise in the courtroom, politely ask the judge to assist you to have the quiet conditions you need to hear what you must interpret. If the noise persists, repeat your request—the bailiff and the judge are also usually keen to restore silence and decorum to their courtroom.

If the problem is that the defendant or witness is speaking too softly, it is best to turn to the judge and say, “Your Honor, the interpreter is unable to hear the defendant/witness,” “Your Honor, may the interpreter ask the defendant/witness to repeat what he said,” or “Your Honor, may the interpreter confirm that he/she heard correctly,” rather than directly asking the individual straightaway. Doing the latter could be misconstrued by the jury or attorneys

as conversing with the party you are interpreting for, even if you simply asked, “What was that you said?”

### **Instructions to Parties**

Standard 2.11 of the California Standards of Judicial Administration provides that in interpreted proceedings the court or the court designee should instruct participants on the procedure to be followed. This includes instructions to interpreters and counsel. However, most courts operate under a great deal of pressure and time constraints, and formal instructions are seldom given. (See Standard 2.11, appendix C.)

Under Standard 2.11, if the court finds good cause, you may have the opportunity to meet with the witness in a brief “pre-appearance interview” before testimony begins in order to acquaint yourself with the witness’s speech traits and instruct him or her about the procedure to be followed. In some cases, the pre-appearance interview has revealed that the witness does not actually speak the language of the assigned interpreter.

Although having a pre-appearance interview for interpretation is in everyone’s interest and ultimately saves time during proceedings, it is still not routine in many courts. You may have to take the initiative to arrange it by suggesting to the defense or prosecution attorney, as the case may be, that you meet briefly with the defendant or witness to explain how the interpreting process works and to make sure that you understand each other. As in other circumstances, counsel (or his or her representative, such as an investigator) may be present at the pre-appearance interview to avoid any appearance of impropriety on your part or to avoid your being called as a witness as to anything that may have been communicated to you.

There may be occasions when time and circumstances do not allow for a pre-appearance interview. In that case, should difficulties arise in court as a result of there having been no opportunity to instruct the witness, politely request permission from the judge to do so at that time.

### **Instructions Not to Interpret**

Standard interpreting practice requires that you interpret for the non-English-speaking defendant at all times during the proceedings. Any deviation from that may create a due-process issue and constitute a violation of rule 2.890(b) (see California Rules of Court, rule 2.890(b); appendix A). Any time an attorney or a defendant requests or instructs you not to interpret, you should request counsel to inform the court so that the judge can make the decision and place it on the record, if he or she agrees with the omission. One likely scenario in which this might occur is in the preliminary preparation of instructions to the jury. As a rule, the decision as to whether to deviate from your normal duties as an interpreter is best left in the hands of the judge, who can best weigh the merits and consequences of such proposals.

### **Documents and Sight Translation**

Whenever an attorney hands a document to a non-English-speaking witness who is sitting at the witness stand, do not take it upon yourself to read or describe it in any way, but wait

instead for instructions to read it aloud in the target language. If during testimony a witness suddenly takes out a document and hands it to you, you should hand it to the attorney or place it on the counter of the witness stand. It is up to the attorney to describe the document for the record and to direct you, with the court's approval, to read it into the record if that is necessary. If the court and counsel seem not to have noticed that the witness handed you a document, bring it to their attention, saying, for instance, "Your Honor, the witness has handed the interpreter a document."

As with recordings presented in court, always request a moment or a brief recess to review any document you are asked to sight-translate. Agree to do so "live" on the record only if it is feasible to do so: (a) the document is relatively short, and (b) you are confident you can accurately sight-translate it on the spot. Otherwise, inform the court that a formal written translation prepared out of court is necessary to ensure accuracy because of length, terminology, or complexity of syntax. As the interpreter of record, you are under no obligation to undertake this task if you do not feel competent. It can be contracted out to someone with the appropriate expertise. Certified and registered interpreters are not necessarily qualified to provide written translations of documents. For translation services, courts should use the services of certified translators. (See also "Written Translation of Documents," under "Evidentiary Materials," above.)

### **Interpreting Audio or Video Tapes in Court**

As a general rule, it is inadvisable to interpret segments of a recording during court proceedings. If you are asked to do so, you will almost always need to request a recess to hear or view the segment first, even if it is short and fairly clear. Recordings are all too easy to mishear or misunderstand, potentially resulting in considerable prejudicial impact to one of the parties.

After a preliminary listening to the tape, you may find that you would be comfortable interpreting that segment directly in court. If, however, you determine that a "live" interpretation is not feasible, inform the court that a formal written transcription and translation prepared out of court would be necessary to ensure accuracy. As the interpreter of record, you are under no obligation to undertake this task yourself if you do not feel competent to do so. It may be best to contract the task out to someone with the appropriate expertise. In any case, remember the confidential nature of the contents of such recordings.

### **Cultural or Linguistic Expertise**

Even though you have language expertise, you should make every effort to avoid testifying as an expert witness in a case in which you are interpreting. Doing so might blur your function in the courtroom and prevent you from being able to continue interpreting in the case.

Especially avoid testifying on issues that extend beyond your knowledge and authority. As a court interpreter, your function is not that of an expert on the culture of the non-English-speaking defendant or witnesses or on cultural practices referred to in testimony. Authorities in the appropriate fields should be consulted in such matters. For instance, expert testimony as to whether a non-English speaker has clearly understood a police

## *Assessing and Reporting Impediments to Performance*

officer's questions as uttered in the foreign language is beyond an interpreter's expertise. A psychologist might be better suited to provide this kind of testimony.

Even if an attorney seeks to consult you on similar issues, or you feel you have valuable opinions and experience to offer, it is wise to refrain from commenting, even in an informal setting.

## Duty to Report Ethical Violations

*An interpreter must report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.*

—California Rules of Court, rule 2.890(i)

If anyone tries to induce or encourage you to violate any statute, rule, regulation, or policy relating to court interpreting, you are obligated to report the situation to the proper authorities, such as the judge assigned to the case, the court interpreter coordinator, the supervising public defender or district attorney, or the presiding judge of the court.

# Appendix

## A. California Rules of Court, Rule 2.890

### **Rule 2.890. Professional conduct for interpreters**

#### **(a) Representation of qualifications**

An interpreter must accurately and completely represent his or her certifications, training, and relevant experience.

*(Subd (a) amended effective January 1, 2007.)*

#### **(b) Complete and accurate interpretation**

An interpreter must use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter must interpret everything that is said during the entire proceedings. When interpreting for a witness, the interpreter must interpret everything that is said during the witness's testimony.

*(Subd (b) amended effective January 1, 2007.)*

#### **(c) Impartiality and avoidance of conflicts of interest**

##### *(1) Impartiality*

An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias.

##### *(2) Disclosure of conflicts*

An interpreter must disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter is a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case.

##### *(3) Conduct*

An interpreter must not engage in conduct creating the appearance of bias, prejudice, or partiality.

##### *(4) Statements*

An interpreter must not make statements to any person about the merits of the case until the litigation has concluded.

*(Subd (c) amended effective January 1, 2007.)*

**(d) Confidentiality of privileged communications**

An interpreter must not disclose privileged communications between counsel and client to any person.

*(Subd (d) amended effective January 1, 2007.)*

**(e) Giving legal advice**

An interpreter must not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

*(Subd (e) amended effective January 1, 2007.)*

**(f) Impartial professional relationships**

An interpreter must maintain an impartial, professional relationship with all court officers, attorneys, jurors, parties, and witnesses.

*(Subd (f) amended effective January 1, 2007.)*

**(g) Continuing education and duty to the profession**

An interpreter must, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter should seek to elevate the standards of performance of the interpreting profession.

*(Subd (g) amended effective January 1, 2007.)*

**(h) Assessing and reporting impediments to performance**

An interpreter must assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter must immediately disclose that reservation to the court or other appropriate authority.

*(Subd (h) amended effective January 1, 2007.)*

**(i) Duty to report ethical violations**



***A. California Rules of Court, Rule 2.890***

An interpreter must report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.

*(Subd (i) amended effective January 1, 2007.)*

*Rule 2.890 amended and renumbered effective January 1, 2007; adopted as rule 984.4 effective January 1, 1999.*

## **B. California Evidence Code Sections 750–755.5**

**§ 750** A person who serves as an interpreter or translator in any action is subject to all the rules of law relating to witnesses.

### **§ 751**

- (a) An interpreter shall take an oath that he or she will make a true interpretation to the witness in a language that the witness understands and that he or she will make a true interpretation of the witness' answers to questions to counsel, court, or jury, in the English language, with his or her best skill and judgment.
- (b) In any proceeding in which a deaf or hard-of-hearing person is testifying under oath, the interpreter certified pursuant to subdivision (f) of Section 754 shall advise the court whenever he or she is unable to comply with his or her oath taken pursuant to subdivision (a).
- (c) A translator shall take an oath that he or she will make a true translation in the English language of any writing he or she is to decipher or translate.
- (d) An interpreter regularly employed by the court and certified or registered in accordance with Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code, or a translator regularly employed by the court, may file an oath as prescribed by this section with the clerk of the court. The filed oath shall serve for all subsequent court proceedings until the appointment is revoked by the court.

### **§ 752**

- (a) When a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter whom he or she can understand and who can understand him or her shall be sworn to interpret for him or her.
- (b) The record shall identify the interpreter who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3.

### **§ 753**

- (a) When the written characters in a writing offered in evidence are incapable of being deciphered or understood directly, a translator who can decipher the characters or understand the language shall be sworn to decipher or translate the writing.
- (b) The record shall identify the translator who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3.

**§ 754**

- (a) As used in this section, “individual who is deaf or hearing impaired” means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hearing impaired provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.
- (b) In any civil or criminal action, including, but not limited to, any action involving a traffic or other infraction, any small claims court proceeding, any juvenile court proceeding, any family court proceeding or service, or any proceeding to determine the mental competency of a person, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or any administrative hearing, where a party or witness is an individual who is deaf or hearing impaired and the individual who is deaf or hearing impaired is present and participating, the proceedings shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.
- (c) For purposes of this section, “appointing authority” means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.
- (d) For the purposes of this section, “interpreter” includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hearing impaired.
- (e) For purposes of this section, “intermediary interpreter” means an individual who is deaf or hearing impaired, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the individual who is deaf or hearing impaired and the qualified interpreter.
- (f) For purposes of this section, “qualified interpreter” means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired.
- (g) In the event that the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hearing impaired or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the individual who is deaf or hearing impaired or his or her representative, appoint an intermediary interpreter.

*B. California Evidence Code Sections 750–755.5*

- (h) Prior to July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hearing impaired. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar, court interpreters, members of professional interpreting organizations, and members of the deaf and hearing-impaired communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the Judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hearing impaired. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies. Commencing July 1, 1997, court interpreters for individuals who are deaf or hearing impaired shall meet the qualifications specified in subdivision (f).
- (i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which that action is pending. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.
- (j) Whenever a peace officer or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing impairment, a good faith effort to secure the services of an interpreter shall be made, without any unnecessary delay unless either the individual who is deaf or hearing impaired affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder.
- (k) No statement, written or oral, made by an individual who the court finds is deaf or hearing impaired in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that individual who is deaf or hearing impaired unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes special findings that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal

***B. California Evidence Code Sections 750–755.5***

regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

- (l) In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.
- (m) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for individuals who are deaf or hearing impaired participating as parties or witnesses in a trial or hearing.
- (n) In any action or proceeding in which an individual who is deaf or hearing impaired is a participant, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hearing impaired.
- (o) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

**§ 754.5** Whenever an otherwise valid privilege exists between an individual who is deaf or hearing impaired and another person, that privilege is not waived merely because an interpreter was used to facilitate their communication.

**§ 755**

- (a) In any action or proceeding under Division 10 (commencing with Section 6200) of the Family Code, and in any action or proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code) or for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code, in which a party does not proficiently speak or understand the English language, and that party is present, an interpreter, as provided in this section, shall be present to interpret the proceedings in a language that the party understands, and to assist communication between the party and his or her attorney. Notwithstanding this requirement, a court may issue an ex parte order pursuant to Sections 2045 and 7710 of, and Article 1 (commencing with Section 6320) of Chapter 2 of Part 4 of Division 10 of the Family Code, without the presence of an interpreter. The interpreter selected shall be certified pursuant to Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code, unless the court in its discretion appoints an interpreter who is not certified.
- (b) The fees of interpreters utilized under this section shall be paid as provided in subdivision (b) of Section 68092 of the Government Code. However, the fees of an interpreter shall be waived for a party who needs an interpreter and appears in forma pauperis pursuant to Section 68511.3 of the Government Code. The Judicial Council shall amend subdivision (i) of California Rule of Court 985 and revise its forms accordingly by July 1, 1996.

***B. California Evidence Code Sections 750–755.5***

- (c) In any civil action in which an interpreter is required under this section, the court shall not commence proceedings until the appointed interpreter is present and situated near the party and his or her attorney. However, this section shall not prohibit the court from doing any of the following:
  - (1) Issuing an order when the necessity for the order outweighs the necessity for an interpreter.
  - (2) Extending the duration of a previously issued temporary order if an interpreter is not readily available.
  - (3) Issuing a permanent order where a party who requires an interpreter fails to make appropriate arrangements for an interpreter after receiving proper notice of the hearing with information about obtaining an interpreter.
- (d) This section does not prohibit the presence of any other person to assist a party.
- (e) A local public entity may, and the Judicial Council shall, apply to the appropriate state agency that receives federal funds authorized pursuant to the federal Violence Against Women Act (P.L. 103-322) for these federal funds or for funds from sources other than the state to implement this section. A local public entity and the Judicial Council shall comply with the requirements of this section only to the extent that any of these funds are made available.
- (f) The Judicial Council shall draft rules and modify forms necessary to implement this section, including those for the petition for a temporary restraining order and related forms, to inform both parties of their right to an interpreter pursuant to this section.

**§ 755.5**

- (a) During any medical examination, requested by an insurer or by the defendant, of a person who is a party to a civil action and who does not proficiently speak or understand the English language, conducted for the purpose of determining damages in a civil action, an interpreter shall be present to interpret the examination in a language that the person understands. The interpreter shall be certified pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) The fees of interpreters used under subdivision (a) shall be paid by the insurer or defendant requesting the medical examination.
- (c) The record of, or testimony concerning, any medical examination conducted in violation of subdivision (a) shall be inadmissible in the civil action for which it was conducted or any other civil action.

***B. California Evidence Code Sections 750–755.5***

- (d) This section does not prohibit the presence of any other person to assist a part.
- (e) In the event that interpreters certified pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code cannot be present at the medical examination, upon stipulation of the parties the requester specified in subdivision (a) shall have the discretionary authority to provisionally qualify and use other interpreters.

## C. California Standards of Judicial Administration, Standards 2.10 and 2.11

### **Standard 2.10 Procedures for determining the need for an interpreter and a pre-appearance interview**

#### **(a) When an interpreter is needed**

An interpreter is needed if, after an examination of a party or witness, the court concludes that:

- (1) The party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or
- (2) The witness cannot speak English so as to be understood directly by counsel, court, and jury.

#### **(b) When an examination is required**

The court should examine a party or witness on the record to determine whether an interpreter is needed if:

- (1) A party or counsel requests such an examination; or
- (2) It appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings.

#### **(c) Examination of party or witness**

To determine if an interpreter is needed, the court should normally include questions on the following:

- (1) Identification (for example: name, address, birthdate, age, place of birth);
- (2) Active vocabulary in vernacular English (for example: “How did you come to the court today?” “What kind of work do you do?” “Where did you go to school?” “What was the highest grade you completed?” “Describe what you see in the courtroom.” “What have you eaten today?”). Questions should be phrased to avoid “yes” or “no” replies;
- (3) The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the



### ***C. California Standards of Judicial Administration, Standards 2.10 and 2.11***

court, the rights of a party or criminal defendant, and the responsibilities of a witness).

#### **(d) Record of examination**

After the examination, the court should state its conclusion on the record. The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

#### **(e) Good cause for pre-appearance interview**

For good cause, the court should authorize a pre-appearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.

*Standard 2.10 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18 effective January 1, 1999.*

### **Standard 2.11 Interpreted proceedings—instructing participants on procedure**

#### **(a) Instructions to interpreters**

The court or the court's designee should give the following instructions to interpreters, either orally or in writing:

- (1) Do not discuss the pending proceedings with a party or witness.
- (2) Do not disclose communications between counsel and client.
- (3) Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.
- (4) Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
- (5) Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
- (6) Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says. . .")

*C. California Standards of Judicial Administration, Standards 2.10 and 2.11*

- (7) Direct all inquiries or problems to the court and not to the witness or counsel. If necessary, you may request permission to approach the bench with counsel to discuss a problem.
- (8) Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.
- (9) Inform the court if you become fatigued during the proceedings.
- (10) When interpreting for a party at the counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
- (11) Interpret everything, including objections.
- (12) If the court finds good cause under rule 2.893(e), hold a pre-appearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the pre-appearance interview.
- (13) During the pre-appearance interview with a non-English-speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
  - (A) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.
  - (B) The witness must direct all responses to the person asking the question, not to the interpreter.
  - (C) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.
- (14) During the pre-appearance interview with a non-English-speaking party, give the following instructions on the procedure to be used when the non-English-speaking party is not testifying:
  - (A) The interpreter will interpret all statements made in open court.
  - (B) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

*C. California Standards of Judicial Administration, Standards 2.10 and 2.11*

**(b) Instructions to counsel**

The court or the court's designee should give the following instructions to counsel, either orally or in writing:

- (1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if. . .")
- (2) If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem.
- (3) If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

*Standard 2.11 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18.1 effective January 1, 1999.*

## D. Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts

### **Preamble**

Federally certified court interpreters are highly skilled professionals who bring to the judicial process specialized language skills, impartiality, and propriety in dealing with parties, counsel, the court, and the jury. All contract court interpreters, regardless of certification, are appointed to serve the court pursuant to 28 U.S.C. § 1827. When interpreters are sworn in they become, for the duration of the assignment, officers of the court with the specific duty and responsibility of interpreting between English and the language specified. In their capacity as officers of the court, contract court interpreters are expected to follow the Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts.

### **1: Accuracy and Completeness**

Interpreters shall render a complete and accurate interpretation or sight translation that preserves the level of language used without altering, omitting, or adding anything to what is stated or written, and without explanation. The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding.

### **2: Representation of Qualifications**

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

### **3: Impartiality, Conflicts of Interest, and Remuneration and Gifts**

*Impartiality.* Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. During the course of the proceedings, interpreters shall not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions.

*Conflicts of Interest.* Interpreters shall disclose any real or perceived conflict of interest, including any prior involvement with the case, parties, witnesses or attorneys, and shall not serve in any matter in which they have a conflict of interest.

*Remuneration and Gifts.* Court interpreters shall accept remuneration for their service to the court only from the court. Court interpreters shall not accept any gifts, gratuities, or valuable consideration from any litigant, witness, or attorney in a case in which the interpreter is serving the court, provided, however, that when no other court interpreters are available, the court may authorize court interpreters working for the court to provide interpreting services to, and receive compensation for such services from, an attorney in the case.

*D. Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts*

**4: Professional Demeanor**

In the course of their service to the court, interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

**5: Confidentiality**

Interpreters shall protect the confidentiality of all privileged and other confidential information.

**6: Restriction of Public Comment**

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

**7: Scope of Practice**

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

**8: Assessing and Reporting Impediments to Performance**

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

**9: Duty to Report Ethical Violations**

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of these Standards, or any other official policy governing court interpreting and legal translating.