



LEGAL INTERPRETERS

BY AGATA BACZYK

With millions of people qualifying as Limited English Proficiency (LEP), interpreters have become integral to many legal proceedings. It may be a client or witness who understands little or no English, or maybe understands English well enough to communicate in everyday social settings but not enough to understand the complexities of the legal system. Often it is left to the paralegal to figure out how to facilitate communication to make the process go smoothly.

Sometimes law firms, especially those specializing in immigration law, hire bilingual paralegals to help aid in communication; however, an untrained bilingual, while capable of having interactions with the client, should be wary of providing interpretation, especially for any depositions. The same is true for document translation. A bilingual paralegal is an invaluable resource to help determine which documents may need a thorough translation. However, just being bilingual does not make someone a qualified translator. Another common practice, especially for uncommon and rare languages, is to bring in a family member or friend to interpret for the LEP. However, this solution is plagued with the same issues, if not more, than using a bilingual paralegal. Most likely the individual is not familiar with interpreting ethics or standards of practice and they may not be familiar with necessary legal terminology to provide accurate interpretation.

Courts generally provide interpreters during their proceedings but often an interpreter may be needed beforehand to help facilitate communication during client/attorney meetings, deposition prep, or the deposition itself. By hiring an interpreter you are ensuring nearly flawless communication by relying on a trained linguist and cultural expert. An interpreter does not only interpret the words literally, but the meaning behind them, tone of voice, mood, and body language cues. It is as much about the language that occurs between the lines of speech as about the words themselves. This ability requires extensive linguistic training and cultural awareness, and lots of practice. The assessments to determine a quality interpreter have only been in development for the last decade or two

and haven't become completely standardized yet. This can make, for those without familiarity with the industry, finding a qualified professional a daunting experience. In recent years court certification seems to be considered the quintessential element on an interpreter's resume; however, there are many complex processes underlying such a simple notion, and one court certified interpreter may not be as equivalently qualified as another.



What makes a court certified interpreter? Generally, passing an exam administered by the Administrative Office of the Courts (AOC). Be mindful, not all certifications are made equal. Although valuable, certificates obtained through private companies or educational institutions are not considered the same as state certifications. Currently most state courts have some sort of interpreter certification program. The criteria vary so it is important to learn the specific requirements in your state. For example, New Jersey AOC certifies 20 languages and registers an additional 44, and provides three levels of certification (and registration) where the skills of a Master level interpreter will differ from those of a Conditionally Approved, while Florida AOC only certifies 6 languages and distinguishes only one skill level. Presently, the Consortium of Language Access in the Courts counts 43 states among its membership. This pooling of resources allows interpreters in most member states to take a standardized exam available in 20 languages. The states, however, are not required to use the standardized exam, and can develop their own, like New York has done. However the accepted scores in one state may differ from those in another state.

Certification status may help in assessing the credentials of an interpreter but it doesn't guarantee quality interpretation. There are many interpreters who have been interpreting in legal settings for 20, 30 or 40+ years, who started before states developed certification/registration programs, that are trained and may be even more qualified than their certified counterparts. Often they choose not to complete an expensive and lengthy certification process as they are already established in the industry regardless of their certification status.

In those cases I would advise assessing an interpreter using their prior training and experience, taking into account any workshops, classes, and seminars they may have attended, degrees obtained, and any prior cases and work settings they've interpreted for. Bear in mind that for rare languages, like K'iche' and Chaldean, the experience and training may be limited. Common languages will have language specific training available and experience opportunities that don't exist for rare languages.

Any law firm seeking to schedule an interpreter has two options, finding a freelancer themselves or hiring an agency. While hiring an interpreter outright may seem appealing as it saves some money, it does require time and effort which usually falls on the paralegal. Agencies are interpreter scheduling experts, they not only have the industry experience but also specific knowledge of the individual interpreters they commonly work with. In my opinion, the best agencies out there are operated by interpreters themselves, such as Legal Interpreters LLC. There is just no substitute for having experienced the process first hand.

Many factors affect pricing, such as certification, experience, rarity of language, and number of local interpreters along with specific state requirements. For

example, Spanish interpreter rates in California, where using Court Certified interpreters for legal proceedings is required by law, are almost double those in New York. Interpreters also usually request increased rates in less populated locations, so Spanish interpreter rates in Houston or Dallas will be half of those in Laredo, Texas.

The best way to keep the price down is to schedule early. Lack of timely requests decreases the number of interpreters who remain available locally, lengthy travel and last minute fees increase the price. However, what affects price the most are interpreter qualifications. Trainings, workshops, seminars, and certifications are expensive, time and effort, therefore trained interpreters request and deserve to be paid industry standard rates. If any interpreter or agency offers a shockingly good deal, they are probably providing unqualified interpreters. Negotiation is acceptable, but within reason.

Once the meeting/deposition starts, a paralegal and interpreter will have very little, if any, interaction. Nonetheless, the paralegal can be a wonderful resource pre-proceeding. Before scheduling, make sure you do your homework, ask about the dialect, country of origin, or even a specific region within the country where the LEP is from. Sometimes dialects of the same language are not mutually intelligible despite the proximity of the physical location and a shared border. Examples of such languages are Burmese and Mixtec where people from neighboring villages may not be able to understand each other. Legal Interpreters LLC's database is filled with rare language interpreters and their personnel deal with this issue regularly. You will recognize a valuable company by their ability to educate the client on those language specific aspects.

Pre-deposition, a paralegal providing even basic information, such as the names of the witness and attorney, can be very helpful as it allows interpreters to accurately convey those names during the interpreta-

tion. Also, knowing the type of case, especially if it requires specialized terminology, allows the interpreter to review and prepare prior to the proceeding by studying the relevant topic and in turn enhances the quality of interpretation.

For paralegals present during the deposition, if possible, remind the attorneys that interpreters need a break every few hours. Being always "on" is draining and interpreting is a cognitively and physically exhausting task. During long depositions especially, it is important to refuel with food and keep hydrated. Lastly, for bilingual paralegals, be cautious when evaluating an interpreter's performance. A qualified interpreter is the language expert in the room so trust him/her. I've had my interpretation challenged a number of times when I worked as an interpreter and in the vast majority of cases I stood by my interpretation. Certain linguistic nuances are very difficult to translate and sometimes the translation will not be literal or verbatim. It is important to understand that the goal of the interpretation is not to translate "word for word" but "meaning for meaning," especially when dealing with language or culture specific expressions that do not translate literally. On the other hand, a paralegal is often more familiar with the case than the interpreter, as many materials and documents are available prior to the deposition to the first but not the latter. Giving a helping hand with a challenging term or concept is always a welcome gesture and helps the deposition proceed smoothly.

Hiring a qualified interpreter is essential for a successful and properly conducted legal proceeding. Many attorneys or law firms have a habit of choosing the service based solely on the price and then end up spending more money because the deposition is challenged or the interpreter that is present for the proceeding is not performing up to the standards and the event needs to be rescheduled. My advice: save yourself time, money, and

many frustrations; hire a reliable and skilled professional.

Agata Baczyk is the founder and owner of Legal Interpreters LLC, interpretation and translation agency. She has worked as a professional Polish interpreter since 2006. She is a Master Level interpreter on the NJ Registry of Court Interpreting Resources, and is also court certified in NYS and PA. Additionally, she is a medical interpreter and an interpreting coach and instructor, having taught Introduction to Healthcare Interpreting at a number of CUNY schools in New York City. Born and raised in Poland, she earned a B.A. degree in Russian Language and Linguistics from Queens College and completed numerous interpreting trainings and workshops.

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