Best Practices for Attorneys Working with Court Interpreters

State of Delaware
Administrative Office of the Courts
Court Interpreter Program

"The Delaware justice system is based upon the guiding principle that all persons, regardless of age, color, gender, national origin, physical or mental disability, race religion, sexual orientation, or economic status should have equal access to the judicial system." – Delaware Supreme Court, A.D. 107

Persons with no or limited proficiency in English (LEP) and those deaf or hard-of-hearing face great difficulties in their everyday communications but are especially challenged when using the judicial system. Court interpreters allow effective communication between these parties and the Court.

1. INTERPRETER QUALIFICATION

Delaware certification is possible in Arabic, Cantonese, French, Haitian- Creole, Hmong, Korean, Laotian, Mandarin,, Portuguese, Russian, Somali, Spanish and Vietnamese. It is important to assess and determine the interpreter's credentials and experience especially if he/she will be interpreting at trial.

- ✓ **Are you a certified court interpreter? Which state issued your certification?**
- ✓ **Have you had any formal training in Court Interpreting?**
- ✓ **How long have you been a court interpreter?**
- ✓ **Have you interpreted witness testimony before? In criminal or civil cases?**
- ✓ **Do you know the person for whom you will interpret or any of the parties involved in this proceeding?**
- ✓ **Are you familiar with the modes of interpretation?** (Simultaneous, Consecutive and Sight translation.)
- ✓ **Are you familiar with the Code of Professional Responsibility for Court Interpreters? Can you name some of its points?** (Accuracy : no omissions, no additions; Impartiality; Confidentiality; No ex-parte communications with the witness.)
- ✓ **What is the procedure for clarifications?** (Ask the Judge permission to clarify or request a repetition.)

2. INTERPRETER'S OATH

"Do you solemnly swear or affirm under the penalties of perjury to interpret accurately, completely and impartially using your best skill and judgment in accordance with the Code of Professional Responsibility for Court Interpreters?"

3. BEST PRACTICES DURING PROCEEDINGS

Some practical considerations to ensure best delivery of interpretation services are:

A. General

- Allow interpreter to familiarize him/herself with the case by providing materials such as:
  - Key words, slang, specialized terminology, etc.;
  - Names and/or nicknames;
  - Numbers: amounts, accounts, addresses;
  - Copy of the complaint, indictment and any relevant prior testimony; and
  - Physical evidence to be shown to the witness.

- Interpreter should stand or sit where they may hear and be heard without difficulty. At trial, sit interpreter(s) at a table with a clear view of the entire courtroom and parties, and room for interpreter's working materials.

- Remind all parties to speak loudly and clearly into the microphone and one at a time.

- Document translation or transcription/translation of recordings should be done well before they are to be introduced into evidence. Translation work is complex and requires research. A hurried, last-minute translation will be inaccurate and unreliable.

B. Witness Testimony

Non-English-speaking witness testimony is interpreted in the consecutive mode; that is, the interpreter will hear the entire question before interpreting it to the witness. The interpreter will then wait for the complete response before rendering the interpretation into English, out loud and for the record. A good, experienced interpreter will allow a natural question-answer rhythm and will preserve the witness persona.

To ensure best possible delivery, counsel shall:

- Provide the interpreter with any information on the witness that may affect communication such as speech defects, mental health issues, emotional distress issues, education level, etc.
- Explain to the witness the role of the interpreter as an impartial officer of the court, responsible only for accurately interpreting to him/her proceedings and/or testimony.
- Advise the witness that the interpreter will interpret everything he/she says. Advise the witness not to say anything he/she does not want heard.
- Instruct the witness not to engage in "private" conversations with the interpreter.
- Instruct the witness to wait to hear the interpreted question before answering even if they understand some English. Advise witness to look at counsel or jury when answering.
- Place the interpreter by the witness at the stand and make sure the interpreter does not obstruct the witness for the jury.
- During testimony by a non-English-speaking witness, address all questions directly to the witness as if the interpreter were not there.
- Do not ask the interpreter to explain or restate anything said by a party.
- Phrase your questions clearly and, whenever possible, avoid unnecessary ambiguities.
- Provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. Consider using two interpreters for trials and longer proceedings.

4. INTERPRETERS FOR THE DEAF AND HARD-OF-HEARING

Sign language is not universal and presents many variations around the world. It is important therefore to determine the deaf or hard-of-hearing party's specific needs as to which type of Sign Language interpreter - or interpreting team - is needed. It is helpful to determine whether the deaf/hard-of-hearing party is familiar with and uses American Sign Language or the national sign language of his/her country. In case of the latter, extraordinary arrangements may be required that include specialized interpreters and or a communication assessment.

There are several possible certifications by Registry of Interpreters for the Deaf (RID). The preferred certification for court proceedings is the Specialist Certificate: Legal (SC:L). Absent a SC:L, the interpreter(s) may hold a NIC, CI/CT, OTC or CCDI with legal training and experience. www.rid.org

A good, experienced interpreter:

- **will** give an accurate and smooth interpretation; speak loudly and clearly while being unobtrusive;
- **will** use the first person during interpretation and refer to him/herself in the third person as "the interpreter;"
- **will** ask the Court's permission to clarify a term, get a repetition, or correct the record if a previous interpretation was in error;
- **will not** have private conversations with the LEP at any given time; **will not** lead the witness or influence answers through body language;
- **will not** mimic gestures made by the witness**;**
- **will not** substitute an "uh-huh" with a "yes" or a "no" but will repeat the sound;
- **will not** do a "live" interpretation of recordings or on-the –spot translation of any materials to be introduced as evidence; and
- **will not** offer an opinion about the witness for the court/counsel no matter how harmless the comment may appear.

Visit http://courts.state.de.us for more information on Court Interpreters