



Best Practices for Georgia Attorneys Working with Interpreters

By: Bernadette Olmos, Esq.

Preserve confidentiality

Use a licensed interpreter when interviewing and meeting with your client. Georgia interpreters abide by the Code of Professional Responsibility for Interpreters. Standard X of the ethics rules lays out confidentiality of all privileged and confidential information. The commentary under Standard X(D) is clear that the presence of an interpreter shall not affect the privileged nature of any discussion. Explain to the client that the interpreter will interpret everything that he or she says. Any questions for the attorney should be asked outside the presence of everyone, with the exception of the interpreter.

It is a best practice point to use a licensed interpreter in mediation, guardian *ad litem* interviews, therapeutic sessions, depositions, family violence ex-parte proceeding, etc.

Prepare your client on how to use a court interpreter

Allow the interpreter time to speak to the client to see if they understand each other. Do not assume that the interpreter is familiar with the slang, or vernacular that your client plans to use.

Instruct the client to wait for the interpreter to finish talking before his answer.

Instruct your client to speak slowly and concisely so that the interpreter can hear everything that is said.

Instruct the client not to engage in private conversation with the interpreter.

Instruct the client not to speak in English, even if the client has a limited command of the English language. This only creates confusion for the judge.

Literal and verbatim interpretations are your worst nightmare

Make sure to ask what interpretation style the interpreter will use, 1) consecutive, 2) simultaneous, 3) summary, 4) literal or 5) verbatim. The most commonly used interpretation styles are consecutive and simultaneous. Be very careful when using literal or verbatim interpretation styles. Your client's testimony will lose context and will come across as awkward, confusing and will leave room for misunderstandings.

Even though an interpreter and your client speak the same language, there may be regional and cultural differences that are unfamiliar to the interpreter. Trained interpreters will ask the Court to

allow them time to get clarification from the client, or to consult a dictionary. Objections to inaccurate interpretations should be made timely.

Request your court interpreter in advance

Request your court interpreter as soon as you know that you represent a LEP/SI client. Some counties have user friendly online interpreter reservation. Other counties require a phone call in advance. If you are new to a county, call the Judge's clerk and/or the court administration office for direction on how to request an interpreter. If you can't connect with the judge's clerk and/or the court's administration, a better practice point is to file a motion requesting an interpreter for the LEP/SI client. A sample motion is included with this material.

Practice using an interpreter at the counsel table

The attorney should have his or her own interpreter in court to assist with any challenges to the court interpretation. Court interpreters get tired during trials and can make mistakes in interpretation of word choice or omit portions of testimony. In order to make appropriate objections, it is better practice to take your own licensed interpreter to inform you, the attorney, so that you can make your objections on the record. The Court interpreter will be able to review his or her interpretation and correct the error, if any.

Do NOT underestimate your time announcement for the Court

Estimating trial time is an art in and of itself with clients who are proficient in English. If you have practiced using an interpreter with your LEP/SI client, you have an estimation of time for the presentation of your case. However, cases involving interpreters can easily take 2 to 3 times the amount of time that you announced. The court will appreciate a realistic announcement.

Interpreter Fatigue

If you have a proceeding that will take more than two hours, it is better practice to have more than one interpreter. It is tiring to interpret for long periods of time. If a court interpreter believes that he or she is not able to provide accurate interpretations because of fatigue, it is the obligation of the interpreter to inform the court. A short recess is usually in order to allow the interpreter to rest. Some jurisdictions provide for teams of two court interpreters when the proceeding is more than two hours. Two court interpreters can relieve each other at periodic intervals and prevent fatigue and delays.

Document Translation for Court

Document translation or transcription/translation of recordings should be done well in advance. Translation work is complex and requires research. A hurried, last-minute translation will be inaccurate and unreliable.

Document translation for the client

Translation of legal documents and attorney correspondence directed to your client should be done in a timely matter so that the client understands what is going on with his or her case. If you do not know a court interpreter who accepts translation assignments, check the list of interpreters on the COI website, w2.georgiacourts.org/coi/files/certified. All translations should be accompanied by an original certificate of translation detailing the translator's credentials.

Do you have the right person?

Allow the interpreter some time to become familiar with the case information. Allow the interpreter to verify with your client the correct spellings of the litigants' names, including the double surnames. The correct spelling of the parties' names is important. You may confidently announce that you represent Mr. Gonzalez with two Zs and the litigant actually spells his last name as Gonzales, or Gonsalez, or Gonsales.