

Reference Packet for Quick Script

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April 30th, 2022 was the expiration date of the 120-day period LASC relied on to continue remote work under the original COVID-19 Telework contract. Many of you have returned to work and have been called upon to do remote work while on site. Until uniform remote work standards are established between CFI and LASC, your MOU and the following Judicial Council standards apply. We can use the following standards for our own protection by citing them, if necessary, while on the record. CFI will use them to defend against any attempt to discipline us in remote settings. I have italicized what can be quoted and used as the legal source.

We can start with our Code of Professional Responsibility (Ethics) which you can find on our CFI website and in a link to a JC manual that will be cited throughout this document. The link to the JC manual is here: <http://www.courts.ca.gov/2693.htm>

DUTY TO REPORT IMPEDIMENTS TO OUR PERFORMANCE:

Fatigue, Audibility, Complex Sight Translations & Witnesses without Preparation

An interpreter must always assess 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)

FATIGUE/TEAM INTERPRETING

FATIGUE is an impediment for which TEAM INTERPRETING is the ideal solution. Fatigue can sneak up on a Remote interpreter. The estimated duration of your assignment might be under 30 minutes, but in practice, the assignment may take an hour or even run-on to become an all-day assignment. Be sure to have personal and court devices near you so you can email or call the Assignment Office to request help during a quick recess.

And do not hesitate to interrupt if you feel fatigue coming on and state for the record that you need a relief interpreter. Ask if the clerk can call for you or if you can be given at least 15 minutes or longer (only you know how long of a break is necessary depending on the difficulty of the assignment) to call for help and to have a break.

Standard 2.11 (described below) instructs us on fatigue and is printed below in blue italics. “Inform the court if you should become fatigued during the proceedings”. Even if a judge is unhappy about the interruption, as long as you maintain a courteous, professional demeanor, you cannot be disciplined by LASC for following JC standards.

JC Comment on Fatigue (p. 33 of JC Manual)

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 always remain mentally alert. 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. “

JC Comments on Team Interpreting (p. 33-34 of JC Manual)

When circumstances allow, courts may provide “team interpreting” in extended court 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.

TEAM INTERPRETING IS IN OUR MOU. PLEASE INVOKE IT IN CONSECUTIVE AND/OR SIMULTANEOUS MODES.

***Note:**

When team interpreting remotely, both interpreters should always stay logged into the proceedings. The interpreter who is not interpreting will mute their microphone and turn-off

video, but should generally, as in on-site team interpretation, remain close-by, keep an ear to the proceedings and keep an eye on the chat function where the interpreter team can communicate needs and questions, and coordinate switch-times with one another throughout.

When possible, it is also a good idea for both team interpreters to have cellphones on hand as a back-up quiet communication tool via text or WhatsApp. (This back-up communication mode is, of course, dependent on the team having one another's cell/WhatsApp number.)

AUDIBILITY

This is our biggest weapon of defense in remote work. The other day while in a remote civil pretrial conference, the Court Connect microphone system had to be transported by the clerk between the attorneys and judge for the interpreter to hear them. The interpreter stated on the record that she would have to recuse herself if this proceeding became a trial (and a trial date was set) because the audio system was extremely inadequate. It would be impossible to interpret accurately. LASC needs to be told by you whether you can do your job or not.

As with in-person interpretation, always speak up when you can't hear or understand something. With remote interpretation, the cause of interference may be background noise or inconsistent internet connection on the part of one or more remote participant, echoes caused by one or more remote party's speaker/mic settings, inadequate mic set-up in either the courtroom or a remote participant's location, to name a few. Interrupt politely, but firmly and fearlessly.

It is harder to interrupt remotely, both because you cannot give the same kind of non-verbal cues as you would in person, and because the technology, which often has a delay and will also clip-out audio-over-audio, requires both more persistence and more precise timing. Since intervening remotely can be more challenging, be prepared with an attitude of self-confidence and assertiveness. Stay strong, colleagues; your Union has your back and the Code of Ethics protects you.

JC Comment of Audibility (p.34 of JC Manual):

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.

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.”

SIGHT TRANSLATIONS (Long /Complex)

No matter what, always have the document emailed to you to review it first. Review how complex it is. Here is the JC's guidance on this.

Judicial Council Comments on p. 35 of JC Manual

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.) (See Page 35 of JC Manual)

Recent Example: An interpreter was asked to sight translate a tentative civil ruling (4 pages long) which read like a dense brief with case cites. The interpreter asked for approximately 45 minutes. She was told that she would have to call the party and sight translate over the phone. She insisted that the party have a copy too. She also asked if she could have his attorney present but was told that he was pro per.

In general, a sight translation without an attorney is dangerous because the LEP might look at you as a legal aide. Please make it clear that you are interpreting as a certified expert in languages, not as someone who knows the law. Any questions from the LEP were written down by this interpreter and conveyed to the judge.

If this complex document had been 7-8 pages or longer, this interpreter could have rightfully insisted that this document be professionally translated and read to the party days later, depending on the length. The cite in italics above gives the interpreter the ability to reject the task if she feels she is not competent to do so on the spot or that day. In this instance, the court clerk worked with the interpreter and apologized profusely.

While discussions initiated by the Union with LASC seek to specify and clarify protocols regarding the sight-translation of complex documents, the interpreter's participation will always be necessary to assess the feasibility of sight-translating the document at hand.

REMOTE WITNESSES YOU HAVE NOT INTERVIEWED

If you feel that it is necessary to have more background information or the trial is complex, interpreters can rely on our MOU which adopts CA Standard 2.10 (e) which reads as follows:

(e) Good cause for *preappearance interview *(as spelled in the Rule of Court,SJA)

*For good cause, the court should authorize a *preappearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreter issues, including colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms. California Rules of Court Standards of Judicial Administration, Standard 2.10(e) Procedures for determining the need for an interpreter and a *preappearance interview.*

Please note that the judge is not obligated to give you an interview with the witness. The language is that he *should*. This rule gives the interpreter the ability to state for the record that he or she needs that clarification. If the judge does say no, you could ask to call the witness by phone or even address the witness over Webex to at least explain how interpretation works with a witness before you start.

You could also request to see the witness in order to get non-verbal cues on the screen if they are present in person in the court, or if they are participating via video remote, but are not already clearly visible. Similarly, if the lack of visual, non-verbal cues from a witness who is participating telephonically impedes your ability to faithfully and accurately interpret testimony, this would be another instance in which the Code of Ethics would require that you inform the judge of the impediment.

CELLPHONE USE IN REMOTE INTERPRETATION:

Cellphones, whether Court-issued or personal, should not be used for Video Remote Interpretation (VRI). They were employed early in the pandemic for VRI as an emergency stopgap measure, but are not technologically adequate for providing regular VRI services. Note that prolonged use of earbuds is far more damaging to the eardrums than noise-cancelling headphones.

LOCATION for REMOTE INTERPRETATION:

If you are working at a site that does not have a designated remote interpretation room, contact your supervisor upon receiving your remote assignment. Please CC' the Assignment Office on the same communication and BCC the Union. CFI should be included so that we can gather data as to whether adequate spaces are being provided for remote work, and if needed, CFI can step in to remedy the situation.

