

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**  
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San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Lee Smalley Edmon, Chair  
Uniform Rules Subcommittee  
Hon. Brian Van Camp, Chair  
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DATE: April 16, 2008

SUBJECT: *Foreign Language Interpreter's Duties—Civil and Small Claims  
(For Noncertified and Nonregistered Interpreters)* (approve form  
INT-200) (Action Required)

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Issue Statement

Currently, unofficial interpreters often assist litigants and the courts in civil cases, but there are no standard instructions explaining their duties as interpreters in court proceedings. The Civil and Small Claims Advisory Committee has developed a new optional form, *Foreign Language Interpreter's Duties—Civil and Small Claims (For Noncertified and Nonregistered Interpreters)* (form INT-200) that courts and judicial officers may use to inform noncertified and nonregistered interpreters about their duties.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve, effective July 1, 2008, *Foreign Language Interpreter's Duties—Civil and Small Claims (For Noncertified and Nonregistered Interpreters)* (form INT-200).

A copy of the form is attached at pages 4 and 5.

Rationale for Recommendation

With relative frequency throughout the state, civil litigants who are not proficient in English and who are unable to hire certified or registered interpreters to assist them bring friends or family members to court to act as their interpreters. These

unofficial interpreters often have no training or experience in court procedures or interpreting in a legal context. Since civil litigants who are not proficient in English sometimes must rely on unofficial interpreters, courts should be able to provide these interpreters with basic information about their special duties in the courtroom.

The Civil and Small Claims Advisory Committee has developed an information form for this purpose. It was initially entitled *Interpreter's Duties—Civil Trials*. The committee sent a draft of this form to the Court Interpreter's Advisory Panel (CIAP). CIAP reviewed the form and proposed some modifications. The Civil and Small Claims Advisory Committee reviewed CIAP's suggestions and made further revisions to the form, incorporating CIAP's suggestions as well as additional suggestions from committee members and copyeditors at the Administrative Office of the Courts.

The Judicial Council has previously adopted several forms relating to the appointment of noncertified interpreters. These forms provide procedures, guidelines, and questions for the courts to use in appointing noncertified interpreters and certifying the unavailability of certified interpreters. Like those other forms relating to interpreters, this form is intended to assist courts and litigants using noncertified interpreters.

The new form would provide a set of basic instructions that courts and judicial officers could give to noncertified interpreters who serve in civil cases before they start to interpret testimony. The form is intended to assist these interpreters, including unofficial interpreters assisting litigants in small claims cases, so that they will better understand their responsibilities in providing interpretations. Hence, the form should help further the judicial branch goals of access and fairness and ensuring the quality of justice.

#### Alternative Actions Considered

The committee considered recommending that this form be approved as an Administrative Office of the Courts form rather than as an official Judicial Council form. However, there are already several other Judicial Council forms specifically designed for use in cases involving noncertified interpreters.<sup>1</sup> This new form would complement that set. So it makes sense to include this new form for noncertified interpreters in the same set as the others. Also, Judicial Council forms are more readily available to the courts and the public in published and electronic

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<sup>1</sup> See *Procedures and Guidelines to Appoint a Noncertified Interpreter in Criminal and Juvenile Delinquency Proceedings (Designated Languages)* (form INT-100); *Qualifications of a Noncertified Interpreter* (form INT-110); and *Certification of Unavailability of Certified Interpreter* (form INT-120).

versions. Hence, the committee recommends that the council approve this new form as a Judicial Council form.

#### Comments From Interested Parties

The proposed form was circulated for public comment in spring 2007. A total of 12 comments were received. The commentators included court administrators, attorneys, a local bar association, a small claims advisor, and Protection and Advocacy, Inc. A chart summarizing the public comments and the committee's responses is attached at pages 6–10. Although most of the comments were favorable, several commentators suggested specific modifications.

Based on the comments, the committee eliminated the signature lines from the proposed form. Also, a commentator pointed out that the proposed title might be misleading; it might appear that the form applies to sign-language interpreters and to situations other than foreign-language interpretation. Another commentator suggested that the form would be helpful in small claims cases and recommended that the form be modified to reference its use for small claims cases. Based on these comments, the committee has changed the title of the form from *Interpreter's Duties—Civil Trials* to *Foreign Language Interpreter's Duties—Civil and Small Claims*.

Finally, a commentator suggested that courts should post the instructions in a public place in the courthouse. The form is an optional one for use by the courts. If a court finds the instructions on the form useful, it may post or publicize the instructions as it deems appropriate.

#### Implementation Requirements and Costs

The form will be made available to the courts to use at their discretion. It will be posted with other Judicial Council forms on the California Courts Web site, where it will be readily available. Courts that elect to use and distribute this form to unofficial interpreters will incur some minor printing costs.

Attachments

## FOREIGN LANGUAGE INTERPRETER'S DUTIES—CIVIL AND SMALL CLAIMS (FOR NONCERTIFIED AND NONREGISTERED INTERPRETERS)

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### **These Instructions**

The responsibilities of an interpreter are very important. These instructions will help you. Please read them carefully.

### **Fluency**

You must be able to understand, speak, and read both the foreign language you are interpreting and the English language.

### **Interpreter's Oath or Affirmation**

You will be given an oath, swearing to interpret as completely and accurately as possible everything that is being said to the best of your ability. A willful violation of your oath can result in punishment.

### **Your Relationship to the Parties or Witnesses**

Tell the judge of any relationship you have to any speaker involved in the case.

### **Interpret Exactly; Request Clarification Promptly**

Do not summarize or try to explain what you believe a speaker is trying to say. Interpret only the exact words spoken by the person. If you are unsure of what was said by any person, stop interpreting and inform the judge that you need clarification before continuing.

When you speak to the court about an interpretation issue that must be brought to the judge's attention, please begin your statements with "Your Honor, the interpreter [for example, requests that the witness repeat herself . . .]."

Do not attempt to improve the level of language used by the speaker. Instead, simply repeat in English exactly what the speaker says, even if the language includes slang or curse words.

### **Confidentiality**

The conversation between a party and his or her lawyer must remain confidential at all times.

### **Speak in the First Person**

When interpreting, speak as if you are the person speaking. For example, if the speaker states, "I already paid that bill," you should interpret it as: "I already paid that bill." Your duty is simply to repeat everything that is said.

### **Remain Neutral**

Do not take sides or try to help one of the parties to win the case. Your role is solely to interpret everything that is being said as completely and accurately as possible. Do not discuss the proceedings with any party or witness until the matter is over.

### **Ask the Person to Speak Slowly; Confer About Interpreting**

Ask each person to speak slowly and pause after each sentence to allow you to interpret fully and accurately. If possible, confer with the speakers before you begin to interpret. Explain how you will be interpreting their words. Discuss any language issues.

## **FOREIGN LANGUAGE INTERPRETER'S DUTIES—CIVIL AND SMALL CLAIMS (FOR NONCERTIFIED AND NONREGISTERED INTERPRETERS) (continued)**

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### **Interpret All Open Court Statements**

Interpret all statements made in open court, including objections. However, interpret discussions between the person for whom you are interpreting and his or her attorney in a low voice, so that others in the courtroom will not be able to hear them.

### **Do Not Give Advice or Opinions**

Do not give advice or your opinion to anyone, including the person for whom you are interpreting.

### **Position Yourself Appropriately and Speak at an Appropriate Volume**

Stand or sit near the person for whom you are interpreting, but try not to block anyone's view of the judge, the jury, or the lawyers.

When interpreting for a party, speak loud enough for the party to hear you clearly but not at a volume that will interfere with the proceedings.

When interpreting for the judge or jury, speak loudly in the same manner of speaking as the person for whom you are interpreting.

### **If There Is a Problem, Tell the Judge Immediately**

Please tell the judge immediately if any of these situations occur:

- You believe you have made a mistake;
- You do not understand, or you forgot, a part of what is being said;
- The person for whom you are interpreting does not understand you;
- You do not know how to say something in English or in the language you're interpreting;
- The speaker is talking too fast or not pausing between sentences;
- You become tired and need a break; or
- You are having difficulty of any kind.

### **No Payment**

You are not entitled to pay from the court for serving as an interpreter in this proceeding.

If you are interested in becoming a certified court interpreter or a registered interpreter, please go to the California Courts Web site at [www.courtinfo.ca.gov/programs/courtinterpreters](http://www.courtinfo.ca.gov/programs/courtinterpreters) for information and an application.

**SPR07-14  
Interpreter's Duties**

Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1. Pam Moraida Program Manager Superior Court of California, County of Solano	A	N	No specific comments.	No response required.
2. Neighborhood Legal Services of Los Angeles County Caron Caines Managing Attorney Pacoima, California	AM	Y	<p>In general, we feel that the content of the form would be very informative and helpful to unofficial interpreters. However, we have two major concerns regarding the form.</p> <p>1. <u>Format</u> While the content of the form would greatly improve the unofficial interpreters' understanding of their duties and responsibilities, the format of the form appears too dense. We suggest that instead of explaining each section in paragraph format, the form should utilize simple lists that are easier to read, or bullet-point format, as much as possible.</p> <p>2. <u>Readability of Language</u> Even though the unofficial interpreters, such as the litigant's relatives or friends, must be able to understand, speak, and read the English language, they are likely to be unfamiliar with legal language and terms of art. Many of these interpreters are fluent in the English language because they have lived in the United States for many years, but nevertheless have low education levels and are unable to understand legal language commonly used in the courts. For example, they may not understand exactly what "open court statements" or "noncertified and nonregistered" means. We strongly suggest</p>	<p>The committee disagreed with this specific comment. It explored other formats earlier and concluded that the current format is effective.</p> <p>The committee believes that the current language is sufficiently clear. However, at some time in the future, the form may be reconsidered and revised in light of the courts' experience in using it.</p>

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<p>3. Sharon Ngim Program Developer and Staff Liaison Standing Committee on the Deliver of Legal Services (SCDLS) The State Bar of California Office of Legal Services, Access &amp; Fairness Programs San Francisco</p>	<p>AM</p>	<p>N</p>	<p>that the language used on the form be adjusted to accommodate this concern.</p> <p>SCDLS supports this proposal with modifications. We support the reasons underlying the proposed form – to provide basic guidance to the many unofficial interpreters that aid limited English proficient litigants in accessing the legal system. However, we have several concerns about the current draft of the form.</p> <p>1. First, we are concerned that for an unofficial interpreter, who has never been presented with these basic guidelines before, receiving this form shortly before a hearing begins does not provide sufficient time for an unofficial interpreter to fully read and understand all of these important points. One change that might be helpful is to group the statements by category – for example, several statements explain basic ethical issues governing interpreters (“Fluency,” “Interpreter’s Oath or Affirmation,” “Your Relationship to the Parties or Witnesses,” and “Confidentiality”) while the rest provide guidance on “how to” interpret in court.</p> <p>2. Second, we are concerned that even if an unofficial interpreter is “fluent” in a non-English language, he or she may not be knowledgeable of legal terms and concepts. We suggest that as much as possible this form be provided along with a translated legal glossary (for example, the Superior Court of Sacramento</p>	<p>1. The committee did not think that reorganization of this short form is necessary. It believes that the information is presented quite clearly.</p>
				<p>2. The committee did not think that this form requires a glossary, though a separate glossary may be helpful.</p>

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			<p>County recently produced legal glossaries in multiple languages).</p> <p>3. Third, we suggest a few edits to the current draft. Under "Ask the Person to Speak Slowly," this should apply to judges and others in addition to witnesses. Under "Confidentiality," it would be clearer to say "You should not share what you learn as an interpreter with anyone besides the person you are interpreting for and her or his lawyer."</p>	<p>3. The committee disagreed with these suggestions. It thought that the current version is preferable.</p>
4. Orange County Bar Association Joseph Chairez President Irvine	AM	Y	No specific comments.	No response required.
5. Protection & Advocacy, Inc. Sujatha J. Branch Staff Attorney Oakland	N	Y	<p>This form provides basic, understandable information to interpreters in civil trials about their obligations. However, the issues addressed in the form illustrate the challenges faced by low-income, in propria persona litigants who cannot afford to hire court-certified or registered interpreters. These individuals run the risk that their interpreter may not interpret their testimony fully and adequately, or that their interpreter may inadvertently reveal confidential information to the opposing party or to the court. For these reasons, access to justice requires the provision of certified interpreters when needed in court proceedings. See, e.g., "Language Access to the Courts in California: A Legal Advocate's Manual," <a href="http://www.lsnr.net/special/language_access_11-0-06.pdf">www.lsnr.net/special/language_access_11-0-06.pdf</a>.</p>	The committee agreed that the form provides basic, understandable information to interpreters.

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			<p>This form addresses the conduct of foreign language interpreters. It should be made clear that the form does not apply to individuals who need interpreters due to a disability, such as individuals who are deaf or hearing impaired. Such individuals have a right to a reasonable accommodation under the Americans With Disabilities Act and the Section 504 of the Rehabilitation Act, which should include provision of certified American Sign Language or other interpreters as requested by the participant in the court proceeding.</p> <p>There is no such thing as a certified interpreter for people with speech disabilities that may make it difficult for others to understand them. Some people with speech disabilities may need an interpreter who knows them and is therefore knowledgeable about their speech patterns. In this situation, people with speech disabilities may choose to use informal interpreters whom they know. The form should be modified to reflect its applicability in this circumstance.</p>	<p>Committee agreed with this suggestion to clarify that this form applies only to foreign language interpreters. In response, it has changed the title of the form to <i>Foreign Language Interpreter's Duties-Civil and Small Claims</i>.</p> <p>As indicated above, the committee has modified the form to indicate it is for use for foreign language interpretation. It did not also attempt at this time to further modify the form to be used in situations involving interpreting for persons with speech disabilities. The committee in the future may explore whether this form or a separate new form should be developed for persons with speech disabilities.</p>
6. Tina Rasnow Senior Attorney/Coordinator Superior Court of California, County of Ventura	A	N	No specific comments.	No response required.
7. Gloria M. Sanchez Small Claims/Civil Advisor	AM	N	You should also provide the instructions in various languages so that the party requiring	The committee will explore the possibility developing translations

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Superior Court of California, County of Contra Costa			interpreter services gains a basic understanding about what their interpreter may or may not do. At a minimum, the instructions should be posted in a public place in the courthouse.	for this form or a new form for foreign language-speaking parties and witnesses. Courts may use the instructions on the form as they consider appropriate, including publicly posting the instructions.
8. Dominique Sanz-David LRA ACCESS Center Superior Court of California, County of San Francisco	AM	N	The "confidentiality" section should have a conclusion. Attorney-client conversations are privileged, so...you should x, y, z.	The committee disagreed. It did not think additional information about privilege is necessary.
9. Sharol Strickland Court Executive Officer Superior Court of California, County of Butte	AM	N	The form does not need a signature line for the judge. The information can be provided without the judge's signature.	The committee agreed and eliminated the signature line.
10. Superior Court of California, County of Los Angeles	A	Y	No specific comments.	No response required.
11. Superior Court of California, County of Sacramento Dennis B. Jones Court Executive Officer	AM	Y	This would be a great resource for the judicial officer. As the <i>Interpreter's Duties</i> form is informal and instructional, we suggest not requiring the judicial officer's signature.	The committee agreed that the signature line is unnecessary and has removed it.
12. Superior Court of California, County of San Diego Michael M. Roddy Court Executive Officer	A	Y	This form would be helpful to be provided in small claims cases, and the form should be modified to reference its use for small claims cases as well.	The committee agreed and modified the name of the form to indicate that the form may be used in small claims cases.