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**4/25/06**

TRIAL PRACTICE CLINIC  
Spring, 2006  
Class 10

Assignment for March 29, 2006

Class Topic: Interviewing Through An Interpreter and midterm self evaluation

Reading:

- "What Else Was Lost in Translation" by Motoko Rich, New York Times, Sept. 21, 2003
- Interpreter Confidentiality Agreement
- Interviewing Through An Interpreter Outline and Checklist
- Technically Speaking, IEEE Spectrum, August, 1991.
- American/British dialect test by Deb Bartz
- Code of Professional Responsibility for Interpreters in Minnesota
- Consecutive and Simultaneous Exercise
- Don't Get Lost In Translation: Teaching Law Students To Work With Language Interpreters, by Angela McCaffrey 6 Clinical Law Review No. 2 (2000) pages 347 to 399., 6 Clinical L. Rev. 347

Written Assignment:

Please take the British/English test. Use any source you can think of for help including asking classmates! Bring to class.

The class will begin with a scene from the movie Lost in Translation. We will discuss and note the errors highlighted in the New York Times transcript.

Discussion Questions:

1. What is it about a lawyer's role that makes interviewing through interpreters a critical task?
2. Have you had any experience interviewing through interpreters?  
Have you had any concerns about those experiences?
3. Can you understand the technically speaking article? Could you translate it into another language?
4. Please plan to discuss the outline and law review article.
5. In class we will use interactive exercises to experience common issues that arise when interpreters are needed.

## **CONFIDENTIALITY AND NON DISCLOSURE**

I, \_\_\_\_\_, acknowledge that during my work as an interpreter on an independent contract basis at Hamline University School of Law, I will have/have had access to or may become aware of confidences or Secrets of clients served by the Law Clinic. Pursuant to Rule 1.6(c) of the Minnesota Rules of Professional Conduct, and Canon 5 of the Code of Professional Responsibility for Interpreters in the Court System, I agree to hold in confidence all Confidences and Secrets disclosed to me either in writing, verbally, or as a result of the interpretation I do for Hamline University School of Law.

Signed,

\_\_\_\_\_

Dated: \_\_\_\_\_

# CHECKLIST

## Providing legal services with the assistance of an interpreter

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1/7/03

**Determine if you need an interpreter.**

Fluency in any language is a continuum from a few words to extremely high fluency with many gradations in between. Determine at the outset your client's comfort level in English. An interpreter may always be needed for some clients and occasionally for others. Consider that a person who is quite fluent in English may prefer the help of an interpreter in certain situations, such as in an interview for asylum when very detailed information is needed. Discuss these issues with your client.

**Be sure the interpreter understands and agrees to be bound by all ethical obligations.**

Is listed on the statewide roster. To check go to the Minnesota Supreme Court website: [www.courts.state.mn.us](http://www.courts.state.mn.us). Click on court interpreters. The phone number for the state office of interpreters is (651)297-5300.

Rule 8.01 requires the State Court Administrator to maintain and publish a Statewide Roster of interpreters who have:

- Received a passing score on a written ethics test administered by the state court Administrator. (This is a simple 25 question multiple choice test of the Code of Professional Responsibility for Interpreters.)
- Completed the interpreter Orientation Program sponsored by the State Court Administrator; and
- Filed a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

The two-day Orientation Program is an introduction to court interpreting. During the Orientation the role of the court interpreter is discussed; legal system, procedure and terminology are reviewed; and interpreting skills and techniques are modeled. The program does not evaluate interpreting proficiency or fluency in English or any other language.

Sign language interpreters only, must additionally be certified by the *Registry of Interpreters for the Deaf* (RID), with the following generalist certificates before being included on the Statewide Roster:

6. CI&CT - Certificate of Interpretation *and* Certificate of Transliteration; *or*
7. CSC - Comprehensive Skills Certificate; *or*
8. CDI or CDIP - Certified Deaf Interpreter (Provisional).

Sign language interpreters may take the court interpreter Ethics Test, attend the Orientation and file an Affidavit before *or* after being certified by RID. All sign language interpreters listed on the Roster have the required certification from RID and have fulfilled the general requirements above. If no sign language interpreters are available from the Roster, the rules of court nonetheless require sign language interpreters *not* on the Roster to possess the above generalist certification from RID in order to be eligible to work in court.

“Inclusion on the Statewide Roster only indicates that an individual has met the minimum requirements listed above. It does not guarantee competence or proficiency in the specialized skill of court interpreting.”<sup>1</sup>

Understands and agrees to be bound by Code of Professional Responsibility for Interpreters in Minnesota.

Understands obligation of attorney not to reveal client confidence or secret. (Rule 1.6, Rules of Professional Conduct.)

Understands statutory privilege related to interpreters, (M.S. 595.02 (1) (h)).

**Find a qualified interpreter**

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<sup>1</sup>Minn. Court Interpreter Program Guidelines, [www.courts.state.mn.us](http://www.courts.state.mn.us).

Has passed the interpreter certification test for Minnesota or federal court depending on your forum. “Only the certification process pursuant to the Supreme Court Rules of Court Interpreters, including court interpreter proficiency exams, provides assurance of competency”<sup>2</sup> in English, another language, and court interpreting. As of April 2006 certified interpreters are listed on the Minnesota Supreme Court Roster for only Russian, Spanish, American Sign Language, Vietnamese, Mandarin Chinese and Hmong languages.

Is fluent in English.

Is fluent in the client’s native language.

Is fluent in any necessary dialect.

Is familiar with specialized terminology needs in case (i.e. medical, psychiatric, scientific, legal.)

Is not a friend or relative.

Has no conflict of interest.

Is someone client feels comfortable with.

**Interview in a manner that will provide the most accurate translation possible**

Schedule interview with an interpreter for longer than interview without interpreter as it will take longer.

Begin by ascertaining the client’s ability to understand and speak English. Even though you are working with an interpreter it is nice to know how much English the client is able to understand and speak.

Direct questions to client in first person rather than through interpreter in third person. Maintain eye contact with client.

Ask interpreter to translate everything as accurately, exactly and completely as possible without censoring or leaving out anything.

Realize not all words or concepts have a counterpart in another language or culture.

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<sup>2</sup>*See id.*

Ask interpreter to let you know when something you have said is not easy to translate so that you can understand the difference and rephrase. Similarly, ask interpreter to let you know when something client has said is difficult to translate into English and explain why.

Ask interpreter to let you know if he or she does not understand a term you have used.

Be sure the interpreter you are working with understands legal and other technical or specialized language necessary in a case. Provide needed definitions. Use non-technical language whenever possible.

Break your conversation down to one sentence, one question at a time so it can be translated completely.

Ask open ended rather than leading questions or questions calling for yes/no answers to get full information. "For example, please tell me more about..."

Realize you come to the interview with your own cultural background. Your client's cultural background may be very different from yours. Try to set aside your cultural assumptions and view the situation from your client's point of view. Some examples of cultural differences could include family structure, decision making, or calendaring. Accurate translation requires more than words. It requires an understanding of cultural context.

Schedule breaks as needed by the interpreter.

**Preparing in case an interpreter is needed for a court hearing.**

Call the court or administrative agency to alert them that an interpreter needs to be provided for an upcoming hearing. (For example Ramsey County has an interpreter office, 651-266-8082). Alert them to the need for a longer than usual amount of time to avoid bifurcated hearings.

Check back with the court or agency close to the hearing date to be sure an interpreter will be present.

Consider hiring an interpreter to attend the hearing with you to alert you to any errors made in translations by the court appointed interpreter so you can make a timely objection.

Determine if you have any objections to the qualifications of the interpreter. (See Rules of Evidence 602, 603, 702)

- Is the interpreter on the statewide roster?
- Is the interpreter certified?
- If the interpreter is not certified,
  - Is the interpreter fluent in native language of client, necessary dialect, & English?
  - Does the interpreter understand the role of court interpreters?
  - Are they able to translate in manner required by forum?
  - Does the interpreter know the client or have any other conflicts of interest in the case?
- Be alert in court to anything that interferes with ability of interpreter to do a good job, such as 2 people talking at once. Ask the court for appropriate assistance.
- Ask the court to record the hearing on audio or videotape to preserve the interpretation for questions on appeal. The court reporter is only recording the English. Without a record, attacking interpreter errors on appeal is extremely difficult.

## QUIZ (by Deb Bartz)

This quiz relates to words used in England. As you answer the questions, you may find that what you think the word means does not often coincide with its actual meaning and common usage.

Answer the following questions by circling the appropriate answer:

1. When one has a "biscuit" one is:
  - a) having tea
  - b) eating a cookie
  - c) taking a break
  
2. The "old bill" is a reference to:
  - a) an overdue invoice
  - b) a grandfather type figure or older gentleman
  - c) a police officer
  
3. When one "nicks" something, one is:
  - a) coming in contact with another object
  - b) teasing someone(poking fun)
  - c) stealing
  
4. A "video" is a:
  - a) videotape
  - b) V.C.R.
  - c) camcorder
  
5. One uses a "biro" when one is:
  - a) writing
  - b) hammering
  - c) cutting something
  
6. One wears "braces" for:
  - a) straightening teeth
  - b) medical reasons
  - c) holding up or securing one's pants
  
7. When Mary says she is going to "wash up" she is:

- a) referring to her personal hygiene
  - b) about to do the dishes
  - c) trying to finish a project
8. One refers to “clipping the fringes” when one is:
- a) mowing the lawn
  - b) telling someone to get to the point
  - c) visiting the barber
9. When one walks on the “pavement” one is walking on:
- a) the sidewalk
  - b) the grass
  - c) the street
10. When one buys “jelly” one is buying:
- a) gummi bears
  - b) Jell-O
  - c) jam
11. To wear “trainers” is to wear:
- a) sweat pants
  - b) sneakers
  - c) underwear
12. A “lorry” is:
- a) to do something silly [nickname for Stanley Laurel(Laurel & Hardy)]
  - b) compact car
  - c) a truck
13. To go to the “big smoke” is to visit:
- a) the local tavern
  - b) a large factory
  - c) a large city
14. When one refers to the “boot”, one is discussing:

- a) the trunk of a car
- b) firing someone
- c) footwear

Draw a line, matching the appropriate English word with its American English counterpart.

**England**

**America**

Crisp

French fry

Petrol

Turn signal

Indicator

Traffic

Prawn

Gasoline

Juggernaut

Semi-truck

Chip

Shrimp

Chock a Block

Potato chip

## British / American English Quiz Answers

1. b
2. c
3. c
4. b
5. a
6. c
7. b
8. c
9. a
10. b
11. b
12. c
13. c
14. a

crisp – potato chip

petrol – gasoline

indicator – turn signal

prawn – shrimp

juggernaut – semi truck

chip – French fry

chopablock - traffic