

## **Getting the Most out of Depositions in Asia using Legal Interpreters and Certified Realtime Reporters**

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Litigation involving Asian witnesses can be challenging. No doubt you will require the services of both deposition interpreters, also known as legal interpreters, and realtime court reporters who are up to the task.

There are many excellent interpreters in Asia (an “interpreter” being one who translates verbally), who are useful for local meetings or as tour guides, and there are also numerous professional translators (those who work with the written word and translate documents). But make no mistake: These are not deposition interpreters.

Sometimes, hiring a local interpreter with little or no deposition experience for less money will ultimately cost more, due to the deposition being prolonged for hours, constant disruptions and corrections from a check interpreter, and less time for actual witness testimony. The use of even the best interpreter will approximately double the time it takes to conduct a non-interpreted deposition. So if you want to get the most out of your deposition in the shortest amount of time, I offer the following suggestions.

### **Questions to ask the Interpreter:**

- Are they familiar with the protocol for taking American depositions?
- How much experience do they have specifically interpreting depositions involving the subject matter of your case?
- Have they interpreted in that specific city/country previously, to the extent that they are familiar with nuances in local dialect?
- What are their qualifications? (Many interpreters in Asia label themselves PRC certified, Taiwan certified, etc., though there is no such thing).
- Do they understand their role is as an officer of the court and the need for them to maintain neutrality and accuracy without addition, embellishment or omission?
- Do they understand they should interpret in the first-person? (If the witness says, “My name is John Smith,” the interpreter should say, “My name is John Smith,” not “He says his name is John Smith.”)
- Have they worked with check interpreters before, do they understand that their interpretation may be challenged, and will they conduct themselves in a professional manner without arguing and wasting the time of the attorney examining the witness?
- Are they familiar with local customs, restaurants, hotels, and support services to be able to assist you with such matters?

Realtime court reporters are a tremendous aid to both interpreters and attorneys. A realtime reporter uses a stenotype machine and laptop computer to transmit the testimony instantly to other laptops in the room or remotely over the internet.

Realtime is a fantastic tool for cross examination, since the attorney can be looking at the direct examination while formulating his questions. Technical and foreign terminology, geographical terms, and names can be viewed instantly to enhance comprehension. Additional realtime features enable an attorney to privately search and highlight specific areas of testimony on their own laptop for future reference.

### **Questions to ask the Realtime Reporter:**

- Are they a NCRA Certified Realtime Reporter from the U.S.?
- Do they follow the U.S. Federal Rules of Civil Procedure guidelines for transcript formats?
- Will they use American spellings (analyze, defense, check, memorize) instead of British spellings (analyse, defence, cheque, memorise)?
- Are they able to realtime technical testimony such as IP cases in Asia with 99.5% accuracy or better, including local accents, proper names and geographical terms?
- Are they the reporter covering the deposition, or are they an agency who will send a subcontracted reporter that they barely know? (Ask to speak to the actual reporter!)
- Are they sure their equipment will arrive intact and on time in light of increased airport security, Customs and weight restrictions?
- Do they have a backup plan if any of their equipment malfunctions?
- Are they bringing multiple laptops to the depositions for attorneys who may have connectivity problems with their own laptops in Asia?
- Will they provide a laptop to the interpreter to enable a faster and smooth-flowing deposition?

Deposition interpreters and realtime court reporters work together like a well-oiled machine to facilitate the most effective deposition possible. The ability of the interpreter to read the testimony on the realtime monitor enables him or her to interpret more quickly than with the use of handwritten notes.

When a question needs to be repeated, the interpreter can do so from the screen without the attorney having to repeat it. Interpreters and court reporters who work together frequently develop their own style. For example, an interpreter may hold up notes with foreign spellings as they are spoken so that the reporter can input it accurately from the get-go.

### **Keeping Your Team Happy and Efficient**

In order to facilitate superior interpreting and realtime, at least one week prior to the deposition, always provide your team with as much reference material as possible, including a copy of the complaint, prior transcripts from the case, Word Index from prior depositions, patent numbers if an IP case and exhibits.

Counsel should stipulate before the deposition begins whether objections are to be interpreted for the witness. For both the court reporter's and interpreter's benefit, attorneys should be mindful of speaking one at a time. This can be difficult during heated objections, but their job is to create a 100% verbatim record for you. This simply cannot be done if two people are speaking at once.

Finally, court reporters write up to 260 words per minute, and the interpreter is speaking at least twice as much as you. They are the hardest-working people in the room. Taking a short break every 1 to 1.5 hours is essential to keep them sharp!