



## LIMITED ENGLISH, LIMITED DEFENSES (POTENTIALLY...)

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The U.S. court system has long recognized the difficulty with equal access to justice when an individual with limited English proficiency appears in a U.S. court. Therefore, courts across the country now require that credentialed language interpreters are available for case or court function, as well as ancillary court services. ([See, e.g., Ohio Sup.R. 80 through 89.](#))

A credentialed interpreter means either a certified interpreter or one otherwise approved under the court rules. Family members, law enforcement officers, or interested parties are not proper interpreters for a case or court function.

However, there are no rules or requirements regarding the use of interpreters in pre-litigation services, and often a party does not realize the need for an interpreter until prejudice has already occurred.

One such example would be statements to a police officer in a post-accident investigation. With the shortage of drivers in the U.S., trucking companies often hire qualified drivers from abroad, with limited English proficiency. A driver who can often pass driving tests and training courses, is not necessarily equipped to participate in accident-related investigation, and the added stress of an accident, could result in inaccurate statement to the police officer haunting the company in the litigation to come. When an accident involving such driver occurs, the companies should be prepared to provide services of a qualified interpreter, to avoid adverse liability finding that could result when their driver is unable to properly describe his/her role in the accident.

Another potential for prejudice is a deposition of an individual who speaks enough English to “get by,” but might provide damaging recorded testimony when faced with tricky questions by the opposing counsel. It is important to assess the need for an interpreter during the deposition preparation phase and insist on proper procedures in place for the witness or a party with identified language limitations.

Roetzel attorneys are familiar with the rules and requirements for the use of foreign language interpreters in both court functions and pre-litigation settings. If you find yourself in a situation where your defense depends on the testimony of a person with limited English proficiency, contact your Roetzel attorneys to protect your rights.

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