



# Breakout Session : The Nuts and Bolts

State Bar of Michigan Fifth Annual Justice Initiatives Summit  
April 28, 2014

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# The Basics

- MCR 1.111
- MCR 8.127
- MCR 1.111(F)(1):
- The court must appoint a certified interpreter if one is reasonably available. If not, the court may appoint a qualified interpreter.

**¡HOLA**

مرحبا!

你好

**chào**

**Cześć**

안녕하세요

**Hallo**

こんにちは

**Bonjour**

# LEP Data Collection Pilot

- 17<sup>th</sup> Circuit Court, Grand Rapids, MI: Judge Paul J. Denenfeld
  - 15<sup>th</sup> District Court, Ann Arbor, MI: Chief Judge Elizabeth P. Hines
  - Bay County Probate Court, Bay City, MI: Judge Karen A. Tighe
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- Passed written examination and oral proficiency examination administered through SCAO;
- Met all requirements established by SCAO for this interpreter classification; AND
- Registered with SCAO
- Note: Individual certification only!



# Certified Interpreter

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- Must be registered with SCAO
- Met all requirements established by SCAO for this interpreter classification
- Determination by court after voir dire of competency

## Who can be a Qualified Interpreter?

- Individual
- Person who works for an entity providing in-person interpreters
- Person who works for an entity providing remote interpreters

# Qualified Interpreter

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# What if Qualified/Certified not Reasonably Available?

- Make a record
  - Determination through *voir dire*
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# MCR 1.111(B)

- Appointment of a foreign language interpreter required if:
    - Determination made that interpreter is necessary for meaningful participation (request made or court's own determination) AND
    - Person is testifying witness or a party to the case.
  - Appointment of foreign language interpreter at the discretion of court if:
    - Person has substantial interest in the case or court proceeding
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# The Determination

How does a court determine whether the services of a foreign language interpreter are necessary for a person to meaningfully participate?

- Rely on request from LEP individual or on behalf of LEP individual; OR
  - Court received prior notice in the court record/file
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# No Request but Concern...

MCR 1.111(B)(3):

- Conduct examination on the record
    - May use foreign language interpreter
      - Interpreter may participate remotely if needed
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# Waivers

- Waiver allowed by LEP individual
    - Court required to make knowing and voluntary findings
    - Foreign language interpreter must be used
      - May participate remotely
  - Exception: Court determination that interpreter necessary
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# Avoid Conflicts of Interest

- Compensated by a business owned or controlled by a party/witness
  - Friend, family member, or household member of party/witness
  - Potential witness
  - Law enforcement officer
  - Has pecuniary or other interest in the outcome of the case
  - Appointment of interpreter would not serve to protect a party's rights or ensure the integrity of the proceedings
  - Does/may have a perceived conflict of interest
  - Creates an appearance of impropriety
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# Court Employees

- Court Employee (Interpreter only): Must meet minimum requirements of certified interpreter
    - SCAO may authorize hiring of person who does not meet requirements of certified interpreter
  - Employee of the Court (bi-lingual): if meets the minimum requirements for interpreters established by MCR 1.111 and is not otherwise disqualified.
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# Miscellaneous Appointment Information

- Shall appoint an interpreter for a case or court proceeding unless otherwise necessary
  - May set reasonable compensation for interpreters who are appointed by the court.
  - Err on the side of caution and appoint an interpreter
  - The court shall inform of penalties for making false statements
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# Administration of Oath/Affirmation



“Do you solemnly swear or affirm that you will truly, accurately, and impartially interpret in the matter now before the court and not divulge confidential communications, so help you God?”

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May the court deny a request  
for an interpreter?

Simple answer:

**Yes** but must do so by entry of a written  
order.

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# Technology

Technology can make an interpreter reasonably available:

- Remote Interpreting
    - Video Remote Interpreting (VRI)
    - Remote Telephonic Interpreting
      - Basic Telephone
      - Specialize Telephonic System
  - Pre-Recorded
  - On-Line Programs
  - There's an app for that?
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- First group of documents already translated by SCAO
- SCAO working with Michigan Legal Help
- Court forms and informational materials to be translated by SCAO and MLH
- The Court website is a great resource:  
<http://courts.mi.gov/Pages/default.aspx>

# Forms Translation

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- Every Court Has One
- Specific Plans For Providing Services Inside And Outside The Courtroom
- List Of Coordinators On SCAO Website
- Community Partners

# LANGUAGE ACCESS PLANS AND COORDINATORS

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- Appealing Denial of Interpreter
- Administrative Review by Language Access Coordinator
- Talk To Stacy Westra or Robin Eagleson or A Member Of The Implementation Committee
- Complaints Against Interpreter Go To Foreign Language Board of Review

**BE PROACTIVE—ENFORCEMENT IS EVERYONE'S RESPONSIBILITY**

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# Questions?

Contact Information:

SCAO:

Stacy Westra: Language Access Coordinator

Robin Eagleson: Co-Language Access Coordinator

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