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**USE OF COURT-APPOINTED INTERPRETERS AND
PAYMENT OF INTERPRETER FEES IN COURT PROCEEDINGS**

**USE OF SIGN LANGUAGE AND OTHER INTERPRETERS FOR
HEARING IMPAIRED PERSONS IN COURT PROCEEDINGS**

USE OF COURT-APPOINTED INTERPRETERS AND PAYMENT OF INTERPRETER FEES IN COURT PROCEEDINGS

TABLE 1: PARTIES

Type of Proceeding	Is a Court-Appointed Interpreter Required?	Who Pays Interpreter Fees?¹ (Court or Party)
CRIMINAL (Felony and Misdemeanor)	YES A person, charged with a crime, who is unable to understand English has the right to an interpreter throughout the proceedings. (Cal. Const., art. I, § 14.) ² Absent a clear waiver by a defendant, each defendant unable to understand English is entitled to his or her own <i>separate</i> interpreter. (<i>People v. Resendes</i> (1985) 164 Cal.App.3d 812.)	Court (Gov. Code, § 68092(a).) ³
TRAFFIC/ INFRACTIONS	YES ⁴ (Cal. Const., art. I, § 14.)	Court (Gov. Code, § 68092(a).)

¹ Under rule 10.810, function 4, of the California Rules of Court, the cost of courtroom interpreters is an allowable item of court operations. Therefore, unless some authority provides to the contrary, the general rule is that where an interpreter is required by law, the cost of that interpreter is a court expense.

² For guidance in determining the need for an interpreter, see *People v. Gutierrez* (1986) 177 Cal.App.3d 92. See also *In re Raymundo B.* (1988) 203 Cal.App.3d 1447 and the Standards of Judicial Administration, standard 2.10(a) & (b).

³ Although subsections 68092(a) and 68092(b) provide that the county—not the court—shall pay certain interpreter costs, that section predates trial court funding and has not been amended since 1953. In light of rule 10.810, function 4, the reference to county payment in section 68092 is properly read as requiring payment by the court.

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TABLE 1: PARTIES

Type of Proceeding	Is a Court-Appointed Interpreter Required?	Who Pays Interpreter Fees?¹ (Court or Party)
<p>CIVIL (Unlimited and Limited)</p>	<p>NO A non-English-speaking civil litigant does not have a right to a court-appointed interpreter. (<i>Jara v. Municipal Court</i> (1978) 21 Cal.3d 181.)⁵</p>	<p>Party, as directed by the court. (Gov. Code, § 68092(b).)⁶</p>
<p>JUVENILE</p>	<p>Delinquency: YES, if charged with a crime (Cal. Const., art. I, § 14; <i>In re Raymundo B.</i> (1988) 203 Cal.App.3d 1447.)</p> <p>Dependency: YES, if (a) the court appoints counsel for minor or parent and (b) appointment of an interpreter is necessary to ensure effective assistance of counsel. (Cal. Rules of Court, rule 5.534(h)(1)(A) & (B); <i>In re Emilye A. v. Ebrahim A.</i> (1992) 9 Cal.App.4th 1695.)</p>	<p>Court (Gov. Code, § 68092(a).)</p> <p> (Cal. Rules of Court, rule 5.534(h)(1)(A) & (B).)</p>

⁴ A “crime” includes felonies, misdemeanors and infractions. (Pen. Code, § 16.) Because an infraction is a criminal matter, a non-English speaking party is entitled to a court interpreter pursuant to article 1, section 14 of the California Constitution.

⁵ In counties with populations of 900,000 or more, when services of employee interpreters are not required in criminal or juvenile proceedings, the court may assign employee interpreters to civil cases, and the litigants pay the interpreter fees, as directed by the court. (Gov. Code, § 26806(c).)

⁶ For discussion of the applicability of this section to the courts, see footnote 3 above.

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TABLE 1: PARTIES

Type of Proceeding	Is a Court-Appointed Interpreter Required?	Who Pays Interpreter Fees?¹ (Court or Party)
FAMILY	<p>YES, if (1) the court is a party to an agreement involving the Domestic Violence–Family Law Court Interpreter Program (DV Grant Agreement)⁷ and (2) one or more of the parties or litigants is unable to participate fully in any of the following proceedings because of low English proficiency:</p> <p>(1) Proceedings in which domestic violence protective orders (Fam. Code, § 6211) have been issued or are being sought; (2) Proceedings under the Family Code generally; and (3) Proceedings in which elder abuse protective orders (Welf. & Inst. Code, § 15657.03) have been issued or are being sought.⁸</p> <p>DV Grant MOUs give priority to interpretations in domestic violence restraining order proceedings.</p>	<p>Court, if pursuant to a DV Grant Agreement.</p> <p>Party in all other circumstances, as directed by the court.</p>

⁷ This chart explains only when an interpreter is required for court proceedings. Consult your DV Grant MOU for other types of proceedings where the court may assign an interpreter under this program.

⁸ The requirement to provide an interpreter is tied to the DV Grant MOU. Thus, there is no requirement that the court provide an interpreter if the court’s DV Grant funds are exhausted.

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TABLE 1: PARTIES

Type of Proceeding	Is a Court-Appointed Interpreter Required?	Who Pays Interpreter Fees?¹ (Court or Party)
<p>SMALL CLAIMS</p>	<p>YES, if party is indigent.</p> <p>This obligation may be met by securing the services of a volunteer interpreter, who need not be certified. (<i>Gardiana v. Small Claims Court</i> (1976) 59 Cal.App.3d 412.) The court may allow someone other than an attorney to assist a non-English-speaking party. (Code Civ. Proc., § 116.550(a) & (d).)</p>	<p>Court, only if the non-English-speaking party is indigent.</p> <p>Court-appointed interpreter fees shall be waived for an indigent party. (Cal. Rules of Court, rule 3.61(5).)</p>
<p>PROBATE</p> <p>(Conservatorship and Guardianship)</p>	<p>NO</p>	<p>Party, as directed by the court.</p> <p>(Gov. Code, § 68092(b).)</p>

TABLE 2: WITNESSES

Type of Proceeding	Is a Court-Appointed Interpreter Required? ⁹	Who Pays Interpreter Fees? (Court or Party)
ALL PROCEEDINGS	YES An interpreter <i>shall</i> be sworn to interpret for a non-English-speaking witness who is incapable of understanding or expressing himself or herself in English so as to be understood directly by counsel, court, and jury. (Evid. Code, § 752(a).)	Party , as directed by the court, <i>except</i> in criminal actions and juvenile court proceedings. (Evid. Code, §§ 752, 730, 731(a) & (c).) ¹⁰ The court may waive fees for a court-appointed interpreter for witnesses. (Cal. Rules of Court, rule 3.62.)
CRIMINAL	YES Absent a clear waiver by defendant, an interpreter, separate from the defendant’s interpreter, is required for a non-English-speaking witness. (<i>People v. Aguilar</i> (1984) 35 Cal.3d 785.)	Court (Evid. Code, §§ 752(b), 731(a).)
JUVENILE	YES	Court (Evid. Code, §§ 752(b), 731(a).)

⁹ An interpreter for a witness is essential to permit the witness to understand questions asked and to inform counsel, judge, and jury of the witness’s responses. By contrast, an interpreter for a litigant interprets communications between the litigant and his or her counsel and all oral proceedings, including testimony and communications of attorneys, judge, and jurors.

¹⁰ As with Government Code section 68092, discussed above in footnote 3, Evidence Code sections 730 and 731 speak in terms of county responsibility for payment of experts (and, by operation of Evidence Code section 752(a), payment of witnesses generally). Those Evidence Code provisions, like Government Code section 68092, also predate trial court funding. Thus, in light of rule 10.810, function 4, to the extent those sections pertain to payment of courtroom interpreters required by law, they should be read as establishing a court—not a county—cost.

TABLE 2: WITNESSES

Type of Proceeding	Is a Court-Appointed Interpreter Required?	Who Pays Interpreter Fees? (Court or Party)
CIVIL	YES This obligation may be met by having someone capable of interpreting assist the non-English-speaking party.	Party , as directed by the court. (Evid. Code, §§ 752(b), 731(c).)

USE OF SIGN LANGUAGE AND OTHER INTERPRETERS FOR HEARING IMPAIRED PERSONS IN COURT PROCEEDINGS

Under California law, an interpreter is required where a hearing impaired party or witness is present and participating in court proceedings.¹¹ (Evid. Code, § 754(b).) Some examples of proceedings where this right applies include:

- **CRIMINAL** (Felony and Misdemeanor)
- **TRAFFIC/INFRACTIONS**
- **FAMILY**
- **JUVENILE** (Dependency and Delinquency)
- **CIVIL** (Unlimited, Limited, Probate, Conservatorship, etc.)
- **SMALL CLAIMS**
- **COURT-ORDERED OR COURT-PROVIDED ALTERNATIVE DISPUTE RESOLUTION, MEDIATION, ARBITRATION, OR ADMINISTRATIVE HEARINGS**
- **MENTAL COMPETENCY PROCEEDINGS**

In addition, under the Americans with Disabilities Act, the court must provide to hearing-impaired persons a reasonable accommodation that will enable such persons to engage in effective communications in court proceedings. In providing such accommodation, the court shall give primary consideration to the specific accommodation requested by such persons (e.g., a request for a sign language interpreter rather than a mechanical device).¹² (28 C.F.R. § 35.160.) The court is responsible for payment of fees for such an interpreter.¹³ (Evid. Code, § 754(i).)

¹¹ See also Evidence Code section 754(a) (“hearing impaired” does not include a party who can fully participate in the proceedings through the use of a listening device). For purposes of this statute, an “interpreter” includes: (1) oral [spoken language] interpreter, (2) American Sign Language interpreter, or (3) an interpreter for the hearing impaired-blind. (Evid. Code, § 754(d).)

¹² Other accommodations could include devices such as a video display terminal to be read as the court reporter is doing real-time reporting.

¹³ Interpreters for hearing impaired persons shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless interpreting is part of their regular duties as an employee. (Evid. Code, § 754(i).) For discussion of the applicability of this section to the courts, see footnote 3 above.