



# PROTEUS

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The National Association of Judiciary Interpreters and Translators*

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## **PROGRAM SET FOR 14TH ANNUAL CONFERENCE**

**Facing the Linguistic and Cultural Challenges of the Twenty-first Century** is the theme of The National Association of Judiciary Interpreters and Translators' 14th Annual Conference to be held during Presidents' Day weekend, February 12-14, 1993 at the Doubletree Hotel in Tucson, Arizona. An exciting program combines presentations on standardizing legal and commercial terminology, panel discussions on professional issues and addresses by prominent members of the legal and academic communities. In addition, conference participants will have an opportunity to see the region's stunning natural beauty and historical sights and join an optional tour to the Arizona-Nogales border.

### **Interpreters and the Law**

The impressive list of speakers reflects a growing recognition of interpreters in the legal setting and increased interest in the field of interpretation and translation by the academic community.

Addressing the gathering will be the Hon. Stanley Feldman, Chief Justice of the Arizona Supreme Court; Bill Hewitt, who will discuss the National Center for State Courts' certification project; and Dr. Susan Phillips, a linguistic anthropologist, whose presentation will deal with *Legal Language, Credibility, and the Interpreter*. The keynote address will be delivered by Dr. Walter Birkby, physical anthropologist and curator of the Arizona State Museum at the University of Arizona.

### **NAFTA a central focus**

The North American Free Trade Agreement and its implications for language specialists will be an important focus of the weekend's discussions. Richard Martínez, Chief Counsel for the Civil Rights Division of the Arizona Department of Law, will speak on *The Interpreter and the Future Economic Development of Three Nations*. Dr. Boris Kozolchik, professor at the University of Arizona College of Law and director of the National Law Center for Inter-American Free Trade, will speak on *Uniform Terminology and the NAFTA*.

### **Panels and workshops; ASL featured**

A panel on American Sign Language led by Robin Byers and Lillian Meriwether will follow a presentation by Dr.

Lawrence Fleischer, director of the Deaf Studies Program at the California State University at Northridge.

A panel including Dr. Roseann Dueñas González, Victoria Vázquez and Dr. Linda Haughton will address *The Federal Court Interpreter Project: A Look at Spanish, Navajo and Haitian Creole Certification Efforts*.

A workshop on the concerns and needs of interpreters of languages other than Spanish is planned, with a special presentation by Alea Alger-Robbins, *The Business of Interpreting: On Being Ethical, Professional and Successful*. Sign language interpretation will be provided throughout the conference. Books and other tools of the trade will be on exhibit and offered at discount prices. A **General Membership Meeting** will follow the formal presentations on Sunday, February 14.

### **Tourist Attractions**

On Friday, February 12, conference participants can join a tour organized by NAJIT to the Arizona-Nogales border and spend the afternoon in Mexico, where they can visit a discount bookstore, taste authentic Mexican food and shop to their hearts' content. Buses will leave from the Doubletree Hotel at 10:00 A.M. and return there at 4:30 P.M. The tour costs \$28 per person.

Friday evening a welcoming reception for conference participants will be held at the Stadium Club on the University of Arizona campus. Transportation, including a tour of the campus, will be provided free of charge.

Tucson also offers many attractions for those who would like to sample them on their own. Among them is the world-famous Arizona-Sonora Desert Museum-- a combination zoological park, botanical garden and geological center, and San Xavier del Bac, the oldest mission in the U.S., located in the Tohono O'odham Reservation. Those attending the conference will also have the unique opportunity of visiting the annual Tucson Gem and Mineral Show, which in 1992 will take place on February 11-14 at the Tucson Convention Center. Precious metals, gemstones and jewelry can be purchased at wholesale prices.

**INFORMATION ON LODGING AND TRAVEL  
ARRANGEMENTS AND A CONFERENCE  
REGISTRATION FORM APPEAR ON PP. 11-12**

## INTERPRETING LEGAL ARGUMENT

Nancy Festinger

Legal argument can be the most tiresome or most challenging part of the court interpreter's daily rounds. It is certainly the most difficult interpreting he or she must do, a sub-specialty within the specialized field of judiciary interpreting. Legal argument is different from evidentiary proceedings, that is, the taking of testimony. And although attorneys' opening and closing statements to the jury are called "argument," for our purposes I am narrowing the definition of legal argument to mean short or extensive oral arguments between a minimum of two attorneys and the judge. All the interpreter's linguistic resources, knowledge of procedural law, patience and flexibility come into play when rendering highly technical argument on how to interpret the law.

*Legalese* is used in a pejorative sense to refer to what Jonathan Swift called "a peculiar cant and jargon," yet despite some well-deserved criticism, the language of the law is not empty posturing. It stands for essential rights, principles and the enforcement of proper procedure. To the untutored ear, terms of art may sound like doublespeak, but they represent fundamental concepts, the product of legal thought and philosophy that has been refined over hundreds of years to the point of incomprehensibility for the many, convenient shorthand for the few.

While the interpretation of legal argument is the true test of the court interpreter's mettle, it has not been a focus of inquiry except in the most general way. Occasional glossaries of basic legal concepts are published or circulated, but to date these have not encompassed the wide range of legal expressions heard in a typical trial, or even in a typical detention hearing. Interpreter aptitude or certification exams usually include an excerpt of a judge's charge to a jury, but that is a technical explanation of the law, not legal argument *per se*. True legal argument is an open-ended discussion that gets in turn embroiled, theoretical, tangential or abstruse, often departing from the actual facts of the case at hand.

Generally the courts have operated under a "sink or swim" philosophy when it comes to this most arduous task: once the interpreter is certified or "otherwise qualified," it is assumed that she will learn to interpret legal argument: simply by being exposed to it. In fact, accurate interpretation of legal argument is a skill developed only by highly motivated and experienced interpreters. Its vocabulary is the least standardized part of the court interpreter's repertoire. With the exception of a few common terms such as *burden of proof*, *standard of proof*, *probable cause*, *search and seizure*, *speedy trial*, *due process*, there has been no consensus on the translation of a multitude of terms of art used by members of the bar and bench.

At the outset, three obvious questions beg to be laid to rest. First: does the interpreter need legal training to understand legal argument? Second, does the interpreter need to *understand* the argument in order to interpret it? And third, why should it matter how coherently legal argument is rendered into another language if (a) most defendants do not have the sophistication required to follow it and (b) most English speakers listening to the same argument would tune out or scratch their heads in bewilderment?

In answer to the first question, no, the interpreter does not necessarily need legal training. As Felix Frankfurter advised someone interested in a law career, "The best way to prepare for the law is to come to the study of the law as a well-read person." What the interpreter needs is experience and the intelligence to recognize when ordinary language is ordinary language and when it is a legal catchword. For example, "disposing of a case" clearly does not mean throwing it in the garbage pail; similarly, the expression "the four corners of the complaint" is not a reference to street corners or to the corners of a piece of paper. The interpreter constantly derives meaning from context, and then must follow through by recourse to references. Thus, one may surmise from the context of a defense motion to "dismiss the complaint on the four corners," that "four corners" means on the basis of the actual text or language of the complaint. The expression is not the invention of a fanciful speaker, but derives from "the four corners rule," as a dip in *Black's Law Dictionary* will confirm. In brief, for the interpreter as well as for the criminal, ignorance of the law is no excuse: gaps in knowledge can always be filled, but one must listen closely, identify what one understands incompletely and exhaust all resources to find the answer. The rule of thumb is not to gloss over anything.

Second, must the interpreter understand the argument in order to interpret it? No, but it helps. Don't interpreters roll their eyes in ridicule of attorneys who tell them, "You don't have to understand, you just have to interpret"? The only difference between interpreting passably and interpreting well is that it is impossible to interpret well *without* understanding. Naturally, the interpreter wants and tries to understand the argument, otherwise he is just spouting words devoid of meaning. Although many arguments seem to be full of sound and fury, signifying nothing, that is for the judge, not the interpreter, to decide. They may be splitting hairs but we must understand whose hair it is and the roots -- no pun intended -- of the argument.

In answer to the last, perhaps more troubling question, I maintain that it is no concern of ours which if any of the defendants can comprehend the content of legal argument: this part of our job must be performed to the same standard of accuracy as any other part. We should interpret as if the defendants were attorneys... and sometimes they are. The message may not sink in, but we will carry it to the listener. Publishers, for example, don't reason: "No one reads the whole newspaper, so let's stop printing most of the

sections."

Legal arguments are based on both principles of law and case law, or jurisprudence. Rights are created, defined and regulated by *substantive law* and enforced by *procedural law* which also provides for remedies in case of infringement. In hearing argument in criminal cases, a judge will be looking at three things: the constitutional provisions at stake, the statute, which is a legislatively created law subservient to the constitution, and case law, the way that judges in the past have interpreted statutes and constitutional provisions.

Since the American legal system is based on precedents, case law, or authority, will be cited in support of the arguments. Has a similar case with similar fact patterns been decided in the past? If so, how was it decided and what was the reasoning applied? Can it be compared to this case? If not, why not? How to glean the legislative intent of the statute? To this end attorneys refer to the legislative history of a particular law.

Case law does not cover every conceivable situation. There may not be any case law on a particular issue. That is what attorneys mean when they say, "I've found no law on this, but..." When there is no case law, the judge decides the case by weighing all the elements and doing what he deems appropriate.

How can the layperson distinguish between principles of law and case law? For one, legal principles or tenets can be identified by a telegraphic or Latinate phrase, often accompanied by the word "doctrine" or "analysis" -- as in "plain view doctrine," "fruit of the poisonous tree doctrine," "harmless error analysis," the doctrine of *stare decisis*, etc. Case law, on the other hand, is always cited by proper name-- Miranda, Giglio, Francks, Brady, a host of last names that bear no relation to the names of the parties in the case. Chances are if you hear an unfamiliar proper name in the middle of an argument -- and it is not one of the parties or participants in the case -- it is a reference to case law, as in "Giglio holds..." or "Under Brady the government must..." These are foreshortened ways of saying "The Giglio case has established that x, y and z should be done" or "The government's obligations in accordance with the decision in the Brady case are..."

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### **One is always better equipped mentally when one knows what to expect and more or less when to expect it.**

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Nothing is worse for the interpreter than to stumble unprepared into a war of words. One is always better equipped mentally when one knows what to expect and more or less when to expect it. The more we can anticipate the content of an argument, the better off we are. Luckily, much in court is predictable, and the players conform to their roles: the goal of the prosecutor is to convict; that of the defense attorney, to free his client by showing the government's proof is insufficient or invalid, and if that doesn't work, to get the client the lowest sentence possible.

Each side's arguments are brandished in furtherance of those goals.

In any argument, the judge will want to know (1) what the question to be decided is: i.e., the framing or defining of the issue; (2) the principle of law that rules the case (3) the authority for granting the requested relief -- the remedy to a situation; and (4) the standard of proof he must rely on in deciding the case. The standard will either be: "proof beyond a reasonable doubt," "clear and convincing proof" or "a fair preponderance of the evidence."

Legal arguments can occur at nearly every phase of a criminal proceeding from arraignment to sentencing. Since space does not permit me to go into detail in each category, I'll concentrate on the pretrial phase. Arguments here deal mainly with the legality of an arrest or seizure, the sufficiency of a complaint, and the bail status of a defendant pending trial. The first defense motion may be to dismiss the complaint either for "facial insufficiency" or for failure to "make out probable cause." "Facial" refers not to beauty treatment but to the text, the actual words of a document. To "make out probable cause," which a complaint must do, means to set forth reasonable grounds which the officer had to arrest someone or seize something. Although "mere suspicion is not enough," the standard of proof for a complaint is "probable cause," not "proof beyond a reasonable doubt." Knowledge of general procedure is the only thing that will enable the interpreter to understand that when the magistrate retorts, "That may form the basis for a motion to suppress but is not cognizable at this hearing" she is talking about a potential defense motion before a district judge in the future, on an issue that is not within the magistrate's power to decide at a preliminary hearing in the case.

A presentment or arraignment, the first court proceeding after an arrest is made, is accompanied by rapid-fire arguments for and against detention. The key words here are "statutory presumption," "rebuttable presumption" "flight risk," "grounds of dangerousness," "bail package," "no condition or combination of conditions" and "family ties." Much of this would be gobbledygook unless one understands that:

- 1) in drug cases there is a statutory presumption that a defendant will flee; and the defense has the burden of rebutting this presumption;
- 2) that the grounds on which the prosecutor may move to keep a defendant detained are "risk of flight" and "danger to the community";
- 3) in a drug case, the government has the right to detain someone for 3 days before a detention hearing is held.

Thus, when a Magistrate Judge asks, "Is this a presumption case?" she wants to know if it is a case to which the statutory presumption applies.

At an initial appearance, the prosecutor will either move for detention or agree to a "bail package," a combination of conditions to secure someone's release. The defense tries to argue that a person's family ties and/or the further guarantee of co-signers on a bail bond are enough to

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## RESEARCH UPDATE

*José Varela-Ibarra*

### RELEVANT RESEARCH

I have just watched the third and final presidential debate. By the time you read this column the election will have taken place. What will the winner contribute to the enhancement of your career as a translator or interpreter? Will the profession be more respected, more appreciated and better paid during this President's term in office? Will you be better off four years from now?

Since I derive most of my income as a university professor, the questions I'll be asking myself after the election include: Does this President see the value of superior professional translation and interpreting in a global economy? If so, will he support funding for translator and interpreter training and translation studies research?

Training and research? Do you, I wonder, the working translator or interpreter, really care about upgrading your knowledge and skills, about keeping up with research that may be relevant to your work, about anything that does not have to do with making more money? Forgive me for sounding as blunt as Ross Perot, but as I said, I just watched the presidential debate. Let's get under the cow, then, as Mr. Perot might say. We do want milk.

What does the professional translator or interpreter think research can contribute to his development? What do you think? What would you consider to be relevant research? What kind of research will help you the most? Will help your colleagues the most? What kind will help your boss and your clients the most? I am listening. I await your response.

In the meantime, let's take a look at the word relevant. When a translator or interpreter friend shows no interest in research findings, often it is because she doesn't think it's relevant to her job. (I use a generic "she" to refer to the interpreter. An article I submitted to a national journal was returned to me questioning this use of "she" when "most court personnel, judges, reporters, etc. are men." Do we need some research on interpreter gender or what?) How do you know when something is relevant to your job? Is a stick relevant to a chimp eating a banana? It isn't if he is holding the fruit. It is if the fruit is beyond his reach and he needs an "arm extension." Like that stick, a lot of research is relevant if we can make the connection and use it as an extension of what we do, to reach a little beyond our usual limits. If we cannot, then as Perot would say, it is not relevant.

I must be part monkey. I love bananas and I love making

connections. In his book *The bisected brain*, Gazzaniga discusses how the brain works, how the left side is the verbal and the right side the visual half, how the two halves are united by nerve fibers, how

they exchange information and work together. While reading, I made the connection to consecutive interpretation.

Students learning consecutive interpretation are asked to repeat (memory stretching) and then to interpret short utterances, without notes. Right brain. They'll be doing fine. Then, they are allowed to take notes -- left brain -- and they'll freeze, make more errors, seem to regress. With time, of course, the bundle of nerve fibers that connect both sides of the brain will create enough "paths of least resistance" so that they will be able to visualize and take notes at about the same time and render accurate consecutive interpretations.

There is research evidence that training in visual sequencing increases the length and complexity of verbal language responses in children (Shane and Walden, 1978). Will such training also augment the length and complexity of the utterances we can interpret consecutively?

Another currently popular research topic of potential bearing on translation and interpreting is **critical thinking**. Would you not agree that whatever else a professional translator does, he or she has to be a master of critical thinking? And the interpreter of very fast critical thinking?

I will let you ponder these and other questions while I retire to pray that when you read this the new president of the United States will be... at least friendly to interpreters.



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### References

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## COMPUTING FOR BEGINNERS: Buying Your First System

David Mintz



It seems that many interpreters, unlike our colleagues who are primarily translators, are not highly computer-literate. Some are marginally literate, and some are outright compu-phobiacs. This column is addressed to those who want to summon all their

nerve and buy their first computer.

My own experience was that I had become addicted to using a word-processing program (rather than typing or writing by hand), and got tired of borrowing the computers of my family, employer, university, etc. I had to have one in my own home. At the time I was staff interpreter at a state courthouse, and I mentioned to somebody that I was thinking about getting a computer. This person said, "Oh, in that case, talk to Walter, he's a serious computer nerd and he can give you some advice."

And so he did. Hence my first bit of advice: if you're thinking about buying a system, find a Walter of your own. There are Walters everywhere, just ask around. You need someone who is both knowledgeable and, unlike a salesperson, disinterested.

Ask a lot of other people what types of hardware they have, where they got it, and what they do and do not like about it. This is especially important if you haven't decided whether you want a *Macintosh* or a *PC* (or *personal computer*, also known as *IBM-compatible* or *DOS-based*). Both are capable of marvelous things. In the general business world, the PC seems to be more nearly universal.

If you're leaning towards a PC, get a copy of *Computer Shopper*. It costs several dollars, weighs about 15 pounds, and is full of advertisements by computer dealers and makers. You can also scan the computer magazines for customer satisfaction surveys that rate the various manufacturers.

You must also decide whether to buy locally or through a mail-order company. The latter method is not as insane as it may sound. The reputable mail order companies (e.g., Gateway 2000, Zeos) are fairly serious about making their customers happy. Your local dealer may or may not be such a good deal. Perhaps they can give you a good price on a big package (*bundle* is the preferred term, often used as a verb) including a printer and some software. Again, ask around. If you see ads in the paper that advertise incredibly low prices, and then you see "monitor optional" in the fine print, forget it -- unless you already happen to have a monitor. If you're looking for a complete system, don't waste your time with these "monitor optional" clowns.

You will need to learn some basic terminology. Your system has three main components: *monitor*, *keyboard*, and *CPU*. The monitor is that thing that looks like a TV,

and the keyboard is self-explanatory. CPU stands for *central processing unit*, and it's where the brains are. Much of the technical stuff you hear about is located here. You hear about 286's and 386's and 486's. Suffice it to say that the higher the number, the faster the machine. One also speaks of *megahertz*: 16, 20, 25, and 33 MHz machines. Again, more is more.

How fast a machine do you need? You've no doubt heard of *Microsoft Windows*, a so-called *GUI* (*graphical user interface*), sometimes (wrongly) called an operating system. This program has its detractors, but is also immensely popular because it (usually) makes computing fairly intuitive, and allows you to run multiple programs simultaneously. Practically all programs that are *for Windows*, or *Windows applications*, have a similar *interface* and can easily exchange data among each other. What's my point? If you think you're going to want to run Windows, get as fast a machine as you can afford.

Systems are usually *bundled* with *DOS 5.0*, *Windows 3.1*, and a *mouse*. Settle for nothing less. DOS, by the way, stands for *Disk Operating System*, and it is what animates your machine, enabling you to make it get up and run programs. The operating system also allows you, among other things, to adjust and regulate your system to your liking and manage the information stored in your computer, which is organized in what are known as *files*.

Speaking of storing information, one must also grasp the difference between *hard disk* and *memory*, or *RAM* (*random access memory*). The standard rough analogy is that memory is like the surface of your desktop where you can spread out your books and papers. The more surface you have, the more stuff you can do and have available at your fingertips at once. The hard disk, on the other hand, is analogous to the desk drawers or a filing cabinet: it's where you get the stuff you spread out on your desk and where you put it back when you're through. When you start a program, you are actually loading a copy of it from your disk into memory.

Get as large a hard disk and as much memory as you can, especially if you think you're going to become a Windows fan. Four *MB* (*megabytes*) of memory and at least an 80 MB disk are a good idea. What are megabytes? About one million units of information known as *bytes*, each of which defines one character of text. To put it in perspective, this article exists as a word processing file that takes up 8,977 bytes. One megabyte can hold enough text to fill up a hefty book. Eighty megs of disk space may sound like a lot, but you won't regret having that much or more.

Your machine should also feature two floppy disk drives, a 3.5 inch and a 5.25 inch, to accommodate the two sizes of diskette that are currently in use. Then there is the matter of *peripherals* (extra gadgets) to consider. A printer is obviously essential, and one has to spend a bit of time on

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## *A Bird's-eye View of Interpreting*

### Janis Palma

#### **Fundamentals of Court Interpretation**

Roseann Dueñas González, Victoria Vásquez, and Holly Mikkelsen  
Durham, NC: Carolina Academic Press, 1991

In *Fundamentals of court interpretation: theory, policy and practice*, there is much policy, some practice and very little theory. The book is a smorgasbord of everything that has ever been said about judiciary interpreting and every study ever done about interpreting in general. In that sense it can be most useful.

To its merit, there is a very good introduction and overview of the history of the profession. However, the chapter on court interpreting outside of the United States is limited to English-speaking countries, an unwitting echo of the Anglocentric attitude in the courts which led to the problems that the certification of interpreters was supposed to solve.

The overview of criminal procedure can be helpful to court interpreting trainers. There are, indeed, many good chapters for the teaching of judiciary interpreting, e.g.: those on the nature of language, aspects of meaning and characteristics of legal language. Readers are teased by a mention of the Socialist Law tradition, but we must go to other sources to get additional information. It would have been useful to go into more detail -- particularly for those interpreters who work with immigrants from socialist countries.

Unfortunately the book is not directed at a clearly defined reader, and as a result it suffers from a lack of uniformity. Some chapters are written like scholarly essays. Others read more like letters to the bar and bench. "Principles on the Proper Utilization of Interpreters in the Courtroom" is a very good essay, but does it belong in a textbook for court interpreters? The same question may be asked about the chapter on "Orientation, Training and Monitoring of Interpreters."

The public policy sections of the book are overwhelmingly self-serving in their praise of the federal certification testing procedures, given that the principal author is both the director of the Arizona Summer Institute, a training program which purports to prepare candidates for the certification exam, and the administrator of the certification program, under contract with the Administrative Office of the U.S. courts. It is troublesome to see footnotes and references to Dueñas González on nearly every page.

In looking to conference interpreting as a model while stating that conference interpreters are unable to comply with the strict requirements of judiciary interpreting, the book perpetuates the contradictions in the recommended guidelines for court interpreters promulgated by the Administrative Office.

There are other contradictions as well. Compare:

Berk-Seligson's (1987) study confirms the suspicion that many interpreters are not rendering the legal equivalent of the original testimony into the TL. (p. 277).

Every day professional translators and interpreters assist their clients in overcoming the language barriers by successfully converting written or oral messages from one language to another in a seemingly effortless operation. So successful are they that in many cases the reader/listener ceases to be aware that the person is not reading/hearing the original speaker (p. 296).

Furthermore, some arguments in the book appear to take for granted that the Court Interpreters Act mandates the use of interpreters; in fact, the language of the law makes the appointment of an interpreter a discretionary matter for the judge. If the law indeed mandated the use of interpreters, judges would be obliged to appoint interpreters in all cases rather than ask bilingual attorneys to wear two hats -- as counsel and interpreter -- when representing a non-English speaking client.

On the matter of interpreters working in tandem, it should be clear by now that those who interpret simultaneously for the defendants should not be the same ones working at the witness stand. The authors' recommendation to divide the team into one interpreter for the simultaneous and one for counsel table is unacceptable under current professional standards.

The rest of the book concentrates on the nuts and bolts of judiciary interpreting and translating, with a section on tape transcripts. It gathers what has already been published and attempts to expand on topics by combining sources (California Court Interpreters Association, New Jersey state publications, the Administrative Office).

It is a pity that the authors never got NAJIT's name right. First it is called the National Association of Judicial Interpreting and Translating, then of Judicial Interpreters and Translators; and NAJIT is mistakenly described as an "eastern seaboard" association.

The chapter on theory (24) turns into a description of problems in the field. The one on theoretical models of interpretation (25), seems promising but is disappointingly developed as the reader is taken on a grand tour of everything written about interpreting in general but it focuses primarily on conference interpreting. The authors review the literature and "question the current interpreting models," suggesting that "scholars [need] to develop a new paradigm powerful enough to explain the cognitive process underlying interpretation." We were hoping to find just that in *Fundamentals*. I suppose we will have to keep waiting.

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## ¿CUAN JUSTA ES LA JUEZ(A)?

Daniel Sherr

En números anteriores de nuestro boletín, se han expresado diversas opiniones sobre la propiedad del uso del vocablo *jueza*. Cándido A. Valderrama mantiene que la palabra es un "barbarismo", mientras que Josep Peñarroja Fa preconiza su uso, instándonos a "no discriminar por sexo en materia de lenguaje".

Ahora bien, quien dice *jueza* también puede decir presidenta, jefa, concejala, médica, etc., lo cual tiene evidentes implicaciones para los intérpretes, puesto que con frecuencia tenemos que traducir estos conceptos. ¿Qué es lo que se dice, y escribe, en el mundo de habla hispana? ¿Por qué se inclinan por una u otra alternativa los hablantes? ¿Puede alguna entidad, ya sea la Real Academia o como en este caso, el Ministerio para las Administraciones Públicas de España, fijar una norma que sea por todos respetada?

Para formar un mapa lingüístico del uso de *juez/jueza* y otras palabras afines, disponía de unas 15 horas de grabaciones de radio, realizadas este año en España y una amplia selección de recortes de la prensa española. A fin de tener una somera idea de las tendencias en Latinoamérica, decidí ponerme en contacto con las redacciones de tres periódicos importantes: *El Espectador* de Bogotá, *Excelsior* de México, D.F. y *La Prensa* de Buenos Aires. He aquí los resultados de mi minisondeo:

**España** Es cierto que muchos dicen *jueza*, tanto en la prensa como en la radio. La política del diario económico *La Gaceta de los Negocios* es escribir "jueza". Sin embargo, el periódico más conocido de España, *El País*, recurre casi siempre a "juez", y su *Libro de estilo* dice, "Aunque la Academia tolera *jueza* como femenino de juez, se seguirá escribiendo *la juez*. Juez es una palabra sin la terminación característica del masculino (la o); por tanto, no necesita la variación para el femenino. (El castellano tiene palabras similares que se forman en femenino sin la a: *la nuez*, *la pez*.) En cambio, en crónicas de ambiente rural puede usarse *la jueza*, pero tomado del lenguaje popular para referirse a *la esposa del juez*."

El programa de radio de máxima audiencia matutina de España es *Protagonistas*, con Luis del Olmo, en cuya tertulia intervienen destacados periodistas. Del Olmo jamás dice *jueza*: "Nos llama una *magistrada juez*, *señora magistrada*, juez de vigilancia penitenciaria, Manola..., la titular [y no *la titulara*] de la Audiencia". De hecho, las dos variantes están actualmente en pugna, y el triunfo de *jueza*, incluso entre los sectores "no sexistas y bienpensantes", todavía no está asegurado. Un reflejo de esta ambivalencia entre el deseo de ser políticamente correcto y la costumbre de toda la vida puede verse en esta frase pronunciada por una de los "contertulios": "Esta es la carta que entregó a la *jueza* María Paz Redondo el señor Boyer para aclarar su posición respecto a la venta de acciones de Sistemas Financieros, y es una carta que le dirige Manolo de la Concha, Manolo de la Concha que ha

confesado ante *la juez* que él asumía la responsabilidad moral..." En España, pues, si bien el uso acepta *la jueza*, *la juez* sigue estando muy enraizada en muchos sectores.

**Colombia** A juzgar por las declaraciones de una redactora de *El Espectador*, Colombia lingüísticamente es el país más conservador en el campo de las terminaciones femeninas. Parece ser que se admite el cambio de o a a, pero no de e a a, y tampoco el agregar la a después de una consonante para crear una variante femenina. Así pues, se dice *la gerente*, *la juez*, y *la ministra*. El femenino de *el sastre* es *la modista*, no *la sastra* y el femenino de *el médico* es *la doctora*, no *la médica* o *la médica*. Es de notar que Colombia es el único país de los cuatro estudiados que no acepta *la jefa* -- se dice *la jefe*. Según Patricia Roca de la redacción, "De pronto, ese uso [*la jueza*, *la concejala*, *la médica*] está correcto, pero aquí suena raro y uno no lo utiliza, ni en el lenguaje común, ni en los medios [de comunicación]".

**México** El estilo de *Excelsior* es casi idéntico al de Colombia, salvo que se admite *la jefa*. Según la redactora que me atendió, "*La médico* o *la médica* suena espantoso, y *la jueza* suena horrible".

**Argentina** Alberto Pastor Ruiz de Gauna, secretario de redacción de *La Prensa*, es un acérrimo partidario del uso de la terminación femenina en toda la línea: *jueza*, *jefa*, *médica*, *concejala*, *modista* (según Pastor, no existe el término *sastra*), y *presidenta*. "Lo que pasa", dice, "es que nuestra constitución habla del cargo de *presidente*. Luego nos tocó tener como presidente a una mujer; se hablaba de *la presidente* María Estela Martínez de Perón. Ahora, cuando se habla de *la presidenta* de una organización benéfica, se dice, por extensión, *la presidente*, pero es un error. La mujer se ha ganado su lugar, y tenemos que reflejar su feminismo o feminidad en el lenguaje".

**Sexismo y fonética** En resumen, los partidarios de *jueza* y palabras afines las recomiendan porque esa alternativa les parece menos sexista. Los que abogan por *la juez* y *la doctora* (en vez de *la médica*) lo hacen porque esas alternativas les suenan mejor.

¿Tiene resabios sexistas el uso de las variantes *la juez* o *la concejala*? Muchos dirían que no; después de todo, el artículo femenino indica claramente si se trata de un hombre o de una mujer.

Donde sí puede darse una interpretación sexista es con palabras como *embajadora* o *presidenta*, que pueden significar tanto "mujer que lleva una embajada" y "la que preside" como "mujer del embajador" o "mujer del presidente". En cambio, nunca se concibe que el embajador sea "el esposo de la embajadora". Aquí, la normativa moderna aconseja el uso de *embajadora* o

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## INTERPRETING ARGUMENT

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prevent flight and ensure that the defendant will return to court. A defense attorney in arguing for his client's release will refer to how "triable" the case is, that is, how winnable from the defense point of view; how much time the defendant faces if convicted; whether he has a motive to flee; the reliability of the witnesses against him. If the magistrate judge orders detention, he will usually say very quickly, "Based on the arguments and representations of counsel, I find that no condition or combination of conditions will reasonably assure the defendant's presence in court and the safety of the community."

Later, after the case comes before a district court judge, legal arguments begin at pretrial conferences and continue through hearings and the trial. Oral argument is constant, always out of the hearing of the jury but with the defendant present. The only general rule is: the longer and more complex the case, the more profuse the arguments.

### Characteristics of Legal Language

One of the most common features of legal argument is that names of cases are used as adjectives, such as a "Giglio problem," a "Batson claim." Names derived from case law are also employed as verbs, such as "Was he properly Mirandized?"

Legal parlance relies heavily on abstract nouns derived from adjectival forms, such as *voluntariness*, *intrusiveness*, *completeness*, *reasonableness*. Noun forms are ubiquitous: *to make a clear showing*, rather than "to show clearly," or nouns derived from verbs, such as *finding*, *determination*. When interpreting into Spanish, for example, abstract nouns often require compound forms (noun + adj.), as in the case of *the cogency of the evidence*.

The language of theoretical possibility abounds: *excludable*, *discoverable*, *cognizable*, *applicable*, *demonstrable*, *accountable*, *proscribable*, etc.

As we would expect, expressions particular to logic and interpretive analysis will naturally appear in legal argument. From the language of logic: *proposition*, *idea*, *notion*, *arguably*, *as in the case of*, *for argument's sake*, *it could be argued...* *conceivably*, *a reductive argument*, *arguing from a false premise*, *the thrust of an argument*, *an argument that is two-pronged*, *the horns of a dilemma*. From the language of interpretation: *in the literal sense*, *the broad sense*, *the narrow sense*, *every sense*, *in no sense*, *a close analysis*, *a restrictive clause*, *ambiguous*, *close call*, *fine line*.

Metaphors, liberally sprinkled even throughout the most technical argument, tend to be geographical: (*to go to* [of a legal concept], *to go into an area*, *to cover ground*, *to get far afield*, *to get one's bearings*); architectural (*threshold showing*, *cornerstone*, *the underlying indictment*, *the underpinning of a statute*); sports or game-related (*to cut one's losses* -- from poker--, *to keep one's eye on the ball*, *to do an end run around the requirements*, *to go on a fishing expedition*, *to fish or cut bait*, *to throw a curve ball*, *to pull a fast one*); or agricultural (*to close the barn after the horse escapes*, *to sell a pig in a poke*, *to go whole hog*).

In any discussion of alternatives, there are always contradictory interests to be reconciled; thus the judge performs a *balancing test*. Here we see the predominant image of justice at work: someone holding the scales and deciding which side outweighs the other.

Along these lines, I have found it helpful to think in categories of positive and negative, since argument is essentially the contrast of opposing views.

Negative verbs: *misuse*, *misrepresent*, *vitiate*, *encroach*, *infringe*, *undermine*, *violate*, etc.

Positive verbs (conciliatory language): *accept*, *concur*, *grant*, *protect*, *strengthen*, *enforce*, *obey*, *adhere*, etc.

Positive adjectives: *consistent*, *coherent*, *proper*, *due*, *obvious*, *evident*, *clear*, *compelling*, *convincing* (Adverbial forms derived from these few adjectives are the most repeated words in legal argument.)

Negative adjectives: *flawed*, *flimsy*, *tenuous*, *defective*, *inconsistent*, *incoherent*, *extraneous*, *fatuous*, *unwarranted*, *unconscionable*, etc.

Negative adverbial phrases: *in defiance of*, *to the detriment of*, *devoid of*, *irrespective of*, *at variance with*, *inconsistent with*, etc.

Positive adverbial phrases: *to good purpose*, *to good effect*, *in all likelihood*, etc.

### Interpreter Strategies

First and most obviously, it is essential to interrupt if one cannot hear the speakers and to avoid starting one's turn in the middle of a speaker's presentation. Expect some disarray and confusion, particularly in the beginning of the argument as each side defines its position and the judge tries to focus on the issue.

Case law references can be dealt with by tagging them, as in *de acuerdo con el caso Brady*, *según el caso Brady* or *material tipo Brady*; *un problema tipo Giglio*. When used as a verb, as in "Mirandized", translate it into a more conventional verb, such as *advertido*; "Brutonized" means to be protected from the Bruton error and can be rendered as *protegido*.

The language of hypothesis, possibility and doubt is couched in the subjunctive mood. All scenarios of possibility can be thought of as a long parenthesis to the main argument.

It helps to create mental categories of words by grouping them into families, either by part of speech or positive/negative connotation, or by associating them with other words.

Since spontaneous argument often includes interruptions and false starts, it is wise to lag further behind the speaker than usual. Do not slavishly reproduce the speaker's hesitations and hedges -- argument is not testimony, but the interpreted rendition should recreate the feeling and rhythm of thinking aloud, which gathers steam as it continues. The interpreter's priority in legal argument is to save time and stamina, for the colloquy may continue for longer than expected and require ever greater power of concentration. When interpreting into Spanish, for example, one develops



the skill always to choose the least number of syllables possible. The interpreter finds short-cuts, remembers them, and uses them automatically: for example, "in comparison to" is best rendered as *frente a*; *comparado con* is just as correct but takes longer to say.

Generally, the interpreter's greatest mental application is needed for syntax reformulations. One does not necessarily adhere to the same part of speech as the original. It helps to think in verbs. In Spanish, for example, many adverbs work well with *cabe* + infinitive, as in "conceivably," *cabe pensar*; "emphatically," *cabe subrayar*. Also, *caber* works well with expressions like "can" and "should," as in "that cannot be ignored," *que no cabe ignorar*.

Ideas or abstract nouns may be more easily rendered in Spanish by nominalizations of verbal phrases, as in "strict adherence to," *el respetar al pie de la letra*.

It is advisable to cut out the stuffing of over-long introductory phrases and idea linkages, making them as short as possible, to get to the meat of the matter.

The main thrust of the argument may be identified by the frequency of repeated phrases: "free to leave," "due process rights," "good faith exception." Usually main ideas are repeated two or three times and expressed most forcefully the last time.

Where the argument has started is not as important as where it is going. Arguments generally lead up to a crescendo: mentally, the interpreter looks ahead and follows the thread to the end.

Passive voice construction is prevalent in English and more so in legal jargon. Since the content of legal argument is often theoretical and hard to visualize, the interpreter endeavors to make the message as active as possible, and get to the verb first, later filling in the subject, for example: "He was not seen by the agents until after the deal went down" would become *No lo vieron los agentes hasta después de concluirse el trato*.

Long lists of numbers can be disconcerting. When attorneys cite the section of the law, the interpreter does not always have to repeat the number, although two-digit rules, such as the ones cited during trial, rule 16 or rule 29, should be repeated. When attorneys cite appeals courts decisions, the numbers are long and it is not necessary to repeat them. The "cite" -- more properly, "citation" -- would be *969 Fed 2nd 897 (2nd circuit, 1989)*. This information is given for research purposes: the first number refers to the volume, "Fed 2" is the series, and the last number is the page number. For purposes of interpretation, the only necessary elements are the year of the decision and the circuit. When numbers refer to procedural rules, it is permissible to substitute content for form, such as translating "3500 material" as *documentos de prueba* rather than *material 3500*.

The dread moment comes when someone says optimistically, "Let's look at the language of the statute," and picks up a five-pound tome. Here the interpreter has two choices: either strain to follow a mumbled, high-speed reading, or prepare to interrupt the speaker. It is a simple

matter to say, "I'm sorry, this cannot be interpreted at this speed." Interpreters are loathe to interrupt, but it is preferable to do so than to struggle uselessly against unintelligible words. Finally, the interpreter should strive to keep entertained, if not by the original, then by one's brilliant rendition of it. If the interpreter loses patience, then stamina and concentration are also endangered. Just as nervousness always interferes with memory, being interested in --or amused by-- the argument is the best guarantee of attention.

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*Nancy Festinger, co-editor of Proteus, is Chief Interpreter for the U.S. District Court, Southern District of New York. A version of this paper was presented at the 1992 ATA conference in San Diego.*

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## ¿CUAN JUSTA...?

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*presidenta* para referirse únicamente al cargo político; el vínculo matrimonial se señala con locuciones como "la mujer del embajador", "la esposa del presidente".

Por otra parte, *juez* tiene una sílaba menos que *jueza*, y para la interpretación simultánea, esa diferencia puede ser útil. Y para quien se ha criado oyendo *la juez*, *la jueza* puede resultar fonéticamente chocante.

En todo caso, la encuesta indica que lo que resulta chocante en una parte del mundo de habla hispana no lo es en otras partes. Además, como reconocieron varios españoles entrevistados, un vocablo, a fuerza de ser empleado insistentemente, puede llegar a parecer normal aun si antes el hablante lo encontraba horriblemente disonante.

¿Llegará a imponer *la jueza* su autoridad de forma uniforme en todo el mundo hispanohablante? El tiempo lo dirá. Como dice el *Manual de estilo* del Ministerio para las Administraciones Públicas, el organismo propulsor del cambio, "el grado de aceptación ... lo determinarán los cambios en la realidad social y el consenso de la comunidad de hablantes". Según comenta el filólogo mexicano Antonio Alatorre, "Recuerdo que de niño leí un libro en el que el fútbol se llamaba balompié. Balompié no, si fútbol es lo que se dice en todo el mundo. Se trató de imponer desde arriba balompié para que fuera español. Pero no, abajo no lo aceptaron".

Y abajo todavía no aceptan del todo a las juezas --a las jueces sí, pero lo que son las juezas ...

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*Daniel Sherr is a journalist and a federally certified Spanish interpreter.*

## LAWYERS AND JUDGES SHOULD EVALUATE INTERPRETERS

*Meir Turner*

I would like to raise an issue most interpreters feel keenly about but few will air: incompetence in our ranks.

I have often consoled myself that in civil court an interpreter's failing when it causes a miscarriage of justice can only bring about monetary loss, ruinous though this may be. It is the criminal cases that haunt me. I will spare you examples of distortions that I have witnessed and others I have only heard about. I am sure everyone has a bagful of horror stories. It is frighteningly easy to destroy a witness's credibility by distorting his testimony. Inadvertently, a straightforward answer may seem evasive, an exculpatory statement can appear damning.

Should we just wait patiently until the powers that be get around to devising certification examinations for all languages? Must we wait until state and city courts raise the \$80 per diem rate, attracting additional qualified interpreters who will eventually, by some Darwinian process, crowd out the less able ones?

Surely there are things we can do in the meantime. Starting a discussion of the options is the first step. A few suggestions occur to me:

An evaluation form can be sent to the judge whenever an interpreter is used. Even a judge totally unfamiliar with the foreign language can help identify obvious problems. The form could also do much to show that an inept interpreter does not lurk behind every unresponsive witness, obvious though this may be. Comments from judges and attorneys do reach the interpreters' office but a standardized form would likely result in greater awareness of an interpreter's performance.

The non-English speaker often feels intimidated by the court and would no more think of requesting a change of interpreter than demanding the replacement of an unsympathetic judge. Perhaps the witness or defendant should be made aware that he can get a replacement for good cause. I don't think that the "change the interpreter" privilege would be abused. On the contrary, it may eventually decrease the number of times we hear the phrase "I didn't understand the interpreter."

Some interpreters accept \$80 per diem jobs knowing full well they will be out early enough to earn money elsewhere. Some of these turn down state jobs when they develop into full-blown trials since this means spending entire days in court.

I used to avoid return dates in such cases by saying I had a scheduling conflict, which in a sense was true. But now I make it a point of telling everyone why I cannot afford to spend the entire day working for what amounts, with travel time, to eight dollars per hour and no benefits.

When I did a lot of per diem work at these rates, my earnings were a deeply hidden secret: people might get the false impression that they represented a full day's wages.

Now, however, I feel that every lawyer and judge should know how little interpreters earn in city and state courts, compared to how much they can earn at depositions, even after agencies deduct the usual fifty percent.

In the past whenever an attorney told me of a bad experience with an interpreter, I either kept silent or expressed regret. Not anymore. My response now is to ask if he complained. Usually the complaint is made too late and to the wrong person. When that is the case, I tell the attorney the blame is mostly his. One cannot fault people for trying to make a living, and some interpreters may just be unaware that they are not proficient enough.

The staff at the interpreters' offices have their hands full and are obviously not in a position to spend countless hours and days observing courtroom performances and making evaluations.

Lawyers, on the other hand, familiar with the case and sensitive to the nuances, are in an excellent position to make such an evaluation. They have an obligation, it seems to me, to pass it on immediately and not wait six months to share it as an anecdote with another interpreter.

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*Meir Turner is a freelance Hebrew interpreter.*

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## COMPUTING FOR BEGINNERS

*(continued from page 5)*

research. Laser printers are fast, put out high quality, and are getting cheaper. Communications toys like modems and fax cards are quite useful, but can be added on later.

When you get your computer and 1,200 pages of documentation along with it, don't be intimidated merely because it is in fact intimidating. Go slowly and learn your fundamentals: get an understanding of filenames and extensions, directory structures, copying and deleting. Develop sound habits such as saving your work frequently, making backup copies of your data, and keeping your files organized rationally. There are *online* (computerized) tutorials and books like *Peter Norton's DOS 5.0 Guide* out there to help you. Don't be afraid to jump in and play around with your new toy.

Expect something to go wrong, because it is not unusual for computers to do something funny early on in life. Then they tend to run fine for several years thereafter. Find a dealer who has high marks for technical service and demand satisfaction if the thing really breaks. A good indication that there is something wrong with it, not you, is when you can't get it to *boot* (start running) and it gives you some ominous sounding error message. Your manuals will contain sections on troubleshooting, and it is wise to consult these before screaming for help.

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*David Mintz is a federally certified freelance Spanish interpreter who lives and computes in central New Jersey.*

## ITEMS OF INTEREST

**January 16-18, 1993. San Antonio, TX.** Federal Judicial Center workshop for U.S. certified court interpreters. Small group sessions on techniques for enhancing simultaneous and consecutive interpretation; legal terminology; issues and problems affecting staff and freelance interpreters; future trends. Call: Federal Judicial Center (202) 273-4122.

**February 1-May 25, 1992. New York.** CUNY Graduate Center spring courses for MA program, the interdisciplinary concentration in translation:

MALS U751 The Computer in Translation

M 6:30-8:30 Prof. Fromme

HLBL U786 Practicum in Translation

T 6:30-8:30 Prof. Rabassa

HLBL U788.50 Court Interpretation II

Th 6:30-8:30 Prof. Orrantia

Registration January 19-29. Address: CUNY Graduate School, 33 W 42 St. NY, NY 10036 (212) 642-1600; or call Prof. R. Waldinger (212) 642-2312.

**February-April, 1993. Monterey, CA.** Court interpreting preparation for state and federal exams (Spanish only). Feb. 22-26 or March 15-19, Prep for written exam; March 22-April 16, Four-week intensive: simultaneous and consecutive techniques; March 1-5 or April 19-23, prep for oral exam. Address: Monterey Institute of International Studies, Center for Language Services, 425 Van Buren Street, Monterey, CA 93940; (408) 647-3534.

**April 20-25, 1993. Havana, Cuba.** Expolingua Habana 1993. Address: Lic. Víctor E. Cruz, Comité Organizador de Expolingua Habana 1993, Centro de Traducciones y Terminología Especializada, Capitolio Nacional, Prado esquina a San José, Apartado Postal 2014, CP 10200, La Habana, Cuba. Tel. No. 60-3411, ext. 1266; Fax (0537) 33-2277.

**July 19-30, 1993. Cambridge, UK.** University of Cambridge Summer Institute in English and Applied Linguistics. There will be a two-hour workshop on "Translation performance and translating competence." Address: University of Cambridge, Board of Continuing Education, Maningley Hall, Madingley, Cambridge; CB3 8AQ England; tel. 44-954-210636

**August 6-13, 1993. Brighton, England.** XIII World Congress of the Fédération Internationale des Traducteurs. This meeting will mark the FIT's 40th anniversary. The Secretariat welcomes papers and presentations on: Literary, Scientific and Technical Translation; Interpretation, Image of the Profession, Lesser Known Languages and Translation Theory. Address: FIT (FIT World Congress Secretariat), 377 City Road EC1V 1NA, United Kingdom.

**September 30 - October 2, 1993. Brownsville, TX.** UT-Brownsville's First Annual Translation Studies Research Forum. Call for single research reports or reviews and round-table papers for group presentations or colloquia. Abstract (250 words maximum) and 4-8 pp. summary required. Abstracts and summaries should be titled and name of author listed on separate sheet. Indicate desired format: paper, round table or colloquium. Send four copies. Deadline: April 15, 1993. Address: Translation Studies Research Forum, Modern Languages-T & I Institute, University of Texas at Brownsville, 80 Fort Brown, Brownsville, TX 78520; (512) 544-5077.

**October 6-10, 1993. Philadelphia, PA.** 34th Annual Conference of the American Translators Association. Address: ATA, 1735 Jefferson Davis Highway, Suite 903, Arlington, VA 22202; (703) 892-1500 or Fax (703) 892-1501.

### NAJIT 14th ANNUAL CONFERENCE

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The conference site is the Doubletree Hotel, 445 South Alvernon Way, Tucson, Arizona 85711, which offers beautiful accommodations and great service as well as tennis courts, a golf course, an exercise room and pools. Special rates are available to NAJIT conference participants, ranging from \$79 for a single to \$99 for a quad. Reservations should be made by contacting the Doubletree Hotel *directly* at: (602) 881-4200 or (800) 828-0444. Fax: (602) 323-5223. Identify yourself as a NAJIT conference participant. *The deadline for hotel reservations is January 18, 1993.*

Travel arrangements may be made by calling Marie Alice Fombrun of Stern's Travel at (800) 722-9862, extension 227 or (212) 704-9862. Fax: (212) 704-0376.

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