

# PROTEUS

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The National Association of Judiciary Interpreters and Translators

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# International Association of Forensic Linguists

### It's All in the Details

### IAFL and the Court Interpreter

**Nancy Festinger** 

After the boxing ring, the courtroom may be the closest that the modern age comes to the Roman Coliseum. A celebrity case or the lesser lights of local scandal always attract a throng to watch the conflict. With high-profile trials recast as sport or entertainment, experts opine on the players and the process, newscasters keep score, attorneys wield words and reasoning to win the fight for justice and the American way, the judge referees; and when it's all over, the public takes great glee in defending or deploring the result, indeed the legal system itself.

The audience for courtroom drama is so wide that a cable channel can survive on a steady diet of trials. But the more visible and audible legal proceedings become to the public, the more resonant certain questions become: how powerful a weapon is legalese? To what extent does the language of the law contribute to the doing or undoing of justice? To what degree are jury instructions comprehensible to the average person? How is language used to humiliate or intimidate witnesses? If a witness is constrained to answer in a yes/no format, can "the whole truth" be conveyed? And finally, the \$64,000 question: How close does the Anglo-American judicial system come to its ideal of fairness for all?

Court administrators do not concern themselves with such matters, considered "philosophic," "semantic," even "political." Judges and attorneys rarely pause to reflect on the nature of legalese: they speak it as though it were English. But where does the ambiguity of language begin, or end? And where to turn for insight?

Look to the forensic linguists, who use the tools of social science to stake out the territory where language and the law interact. Three years ago a small group of them banded together and formed the International

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Lois Feuerle

The Third Biannual Conference of the International Association of Forensic Linguists (IAFL) was a significant event in the field of court interpreting. The presentations addressed both the psychometric issues involved in the testing of potential court interpreters and the technological improvements in the administration of the oral performance tests used to assess the skills of court interpreters, which is by necessity a very labor-intensive procedure. The accuracy of the interpreting services delivered in the courts also constituted an important portion of this conference.

Approximately one-third of the 31 presentations dealt expressly with court interpreting. Presenters included the state officials directly responsible for the administration of court interpreting services and the testing of potential court interpreters in New Jersey, Washington, Maryland and New York, as well as an expert involved in test development for federal law enforcement agencies, court interpreters, a court interpreter trainer, and administrators from Great Britain, Australia, Hong Kong and Japan. In addition, the project director for the State Consortium of the National Center for State Courts traced the development of the testing instruments that have been designed by the Consortium and outlined the NCSC's plans for testing in the future.

Other presentations addressed language issues that impact upon the work of court interpreters. Here presenters included a wide range of linguists and linguistic experts who are working on matters involving language and the law in university and law school settings.

### Testing

The presentation on the test design, methodology and scoring unit system used by the National Center for

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#### The NAJIT Board of Directors

David Mintz, Chair Jersey City, New Jersey mintz@najit.org

Cristina Helmerichs D., Treasurer Austin, Texas helmerichs@najit.org

Fritz Hensey, Secretary Austin, Texas hensey@najit.org

Dagoberto Orrantia New York, New York orrantia@najit.org

Mirta Vidal New York, New York vidal@najit.org

Executive Director
Ariene Stock
Dynamic Management
New York, New York
headquarters@najit.org

#### **Proteus**

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Message from the Board

# Membership is Up

Two attributes that are essential to a strong association are quantity and quality: sheer numbers, and a certain proportion of motivated, skilled individuals who are able and willing to make things happen. In an effort to beef up the numbers, we recently mailed out NAJIT brochures and invitations to join to some 1700 non-members who had contacted NAJIT at some point; we also sent them to 350 people from Administrative Office of the U.S. Courts' roster of certified interpreters. Approximately 2% responded, and membership now stands at an all-time high of 734, representing a total of 62 languages. Assuming a retention rate next year that is similar to this year's, this represents an annual growth rate of about 20%. In terms of membership growth, we are doing well. This is good news. It now appears that a realistic goal is 1000 by 2000.

Speaking of membership, at its last meeting the Board voted to raise student membership dues to \$40.00 effective as of the 1998 dues year. The previous rate of \$25.00 is now insufficient to cover the expense of student memberships. Individual and institutional dues will remain unchanged for 1998.

If you are a new member, welcome to your first issue of *Proteus*. We hope you enjoy it. While we are proud of this quarterly journal of court interpreting, I believe it could be better if more people submitted material and comments. So I invite you as well as longstanding members to contribute to this publication, which is one of the most important things NAJIT does.

#### **Elections**

Several weeks ago a Call for Nominations for the Board of Directors was mailed to all NAJIT members in good standing. The Nominations Committee awaits your nominations, which should be sent care of NAJIT headquarters. By the time the next issue of *Proteus* reaches you, the elections for the three seats on the Board will have come and gone. The biographies and statements of the candidates will be mailed to the membership within a matter of weeks. I urge you to participate—whether by running, nominating or simply voting—so as to make the process meaningful.

#### Conference

t is not to soon to start thinking about attending the 1998 NAJIT conference next May 15-17 in San Antonio, Texas. And although the nominal deadline for sending abstracts was October 1, there is still some room in the program for a few more presentations. If you are interested in submitting a proposal, please send it to NAJIT headquarters promptly (headquarters@najit.org; fax 212-687-4016).

David Mintz Chair, Board of Directors

# August in Armenia: NAJIT was there

#### **Marshall Morris**

his past August, the University of the Quindío (Armenia, Colombia), and the University of Puerto Rico co-sponsored a "First International Symposium on Translation" for the benefit of translation professionals, faculty and students from that region of South America. Well over one hundred persons attended, from some eleven educational institutions and professional associations throughout Colombia, Puerto Rico and New York. Martha Velásquez, of the UQ, and Marshall Morris, of the UPR, organized the program.

NAJIT people figured prominently in the program of workshops and presentations. Janis Palma and Mirta Vidal gave an introductory workshop—two standing-room-only sessions—on interpreting skills and practices. Among the presentations were those by Mirta Vidal on legal interpreting in the United States, and by Dagoberto Orrantia on teaching translation. NAJIT people played prominent roles in the general panels and discussions, as well as in the academic consultations with the University of the Quindío.

The University of Puerto Rico was represented in the symposium by Andrew Hurley, the director of the Graduate Program in Translation, who spoke on changing ideologies in translation. Carmen Diaz gave workshops in her special area, medical translation, and in English-to-Spanish translation. Myrna Estrella gave a workshop on legal translation, and Marshall Morris gave one on Spanish-to-English translation.

University of the Quindío faculty concentrated their

presentations in the area of teaching translation: Luz Stella Zuluaga dealt with the comprehension of texts, and Martha Velásquez with the particular problems of training translators in isolated contexts.

All the papers and workshops were ably presented and exceedingly well received. The largely Colombian audience was eager, outspoken, and

aware of the relevant issues. This made the panel on the role of translators and interpreters in the community, and the general discussion of what teaching in these fields ought to strive toward, lively and stimulating experiences for all of us.

The symposium was an occasion for learning, and not only about the practice of these vital professions. There were many opportunities for professional exchange, and it was particularly interesting to talk with representatives of Colombian translator training programs which are at different stages in their definition and development. Some are struggling with the role and purposes of translation courses within language departments—a problem that is familiar to US translation and interpreting educators. Others are trying to work out the role of terminological studies within translation programs—an issue that we will probably all have to grapple with in the near future. There was discussion of the kind of education a translator ought to have, and at what level the study of translation should begin. Two common concerns were the "defense of the language" (read: Spanish) from the real and perceived inroads of the international language of technology and commerce (read: English), and the need for would-be translators and interpreters to attain superior skills in the native language. The Puerto Rico and US programs are older, and have a good deal to offer their younger, sister programs, in the way of academic assistance, but we were all very much stimulated by the discussions with colleagues whose circumstances differ from our own pre-

### **Book Donation Drive is a Success**

A student-faculty support committee was formed in Puerto Rico to collect books for the Modern Language Department at the University of the Quindío. Thirty three boxes, nearly one thousand volumes, were donated by the Institute of Puerto Rican Culture, the Puerto Rico Academy of the Spanish Language, Plaza Mayor, and many, many individual donors from the university and the general community in San Juan. The donation included copies of two University of Puerto Rico Press volumes on translation, prepared by the Graduate Program in Translation, for each symposium participant. And the Orrantia-Vidal's added a number of specialized dictionaries from their trove of books. Our Colombian colleagues were delighted, and moved.

sent ones.

The UPR and the UQ are now exploring ways of continuing this joint effort, which we believe will be of service to our colleagues in Colombia and beyond. Both are open to other such joint initiatives in the future.

Martha Velásquez chaired the Symposium Organizing Committee, a dynamic group of UQ translation and modern languages faculty. They opened their homes to us, helped us find the books we wanted, took us to their favorite places—eating spots and nearby botanical gardens and lovely, high alpine valleys—and they explained the flora and fauna of the region. We are most grateful for their kindness and hospitality.

Armenia is a small, bustling city, thirty-five minutes

west of Bogotá by air, in the heart of the Colombian coffee country, with high hills rolling up toward the Andes. There is bamboo everywhere, and bright splashes of color—flowering trees, stunning small birds, and brilliantly painted country houses—mark the pretty, well-kept coffee and citrus orchards and pastures. The people and the hospitality are marvelous, and the food delicious...

What are your plans for August? Will you be NAJIT in Armenia next time around? ■

Marshall Morris is a Professor of Translation at the University of Puerto Rico, Rio Piedras.

# **IMMIGRATION COURT TERMINOLOGY**

### Dagoberto Orrantia

review of the literature on foreign language interpretation for immigration court proceedings shows very little work has been done in this area. In Canada the Lexique de l'Immigration provides an extensive French-English glossary, (Ottawa: Bureau de la Traduction, Direction de la terminologie et des services linguistiques, 1990), but there is no work similar in scope in the U.S., although there are abundant source materials that can be used as a basis for a compilation of immigration terms. The most voluminous sample of current documents in English and Spanish is a series of press releases from the Immigration and Naturalization Service (accessible on line http://www.ins.usdoj.gov/newsrels/ 954.html).

Lists of words, however, cannot guarantee a good translation or an accurate and complete interpretation. As is sometimes the case with interpreters in other courts, those who work for the Executive Office of Immigration Review will at times translate literally either out of ignorance or because there are no official translations promulgated by a terminology department or a translation office.

In recent months an avalanche of new immigration legislation has made the situation even more difficult for EOIR interpreters. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 introduced new vocabulary and new sets of forms and notices. And the publicity the law and its enforcement has generated has made some functionaries sensitive about the disagreeable tone that words like "expedited removal" carry.

The situation is made difficult because there is no uniform standard for defining the work of court interpreters, or for judging the accuracy of their work. What an interpreter is expected or required to do differs from court to court: in the New York state courts, for example, interpreters sometimes perform tasks that rightly should fall to the clerk or the lawyer, such as swearing in witnesses or helping defendants and their relatives to fill out forms or explaining the contents of forms. Impatient lawyers in state or federal courts may direct the interpreter to dispense with consecutive interpretation, and sometimes judges will allow or direct an interpreter to interpret simultaneously at the witness stand.

There are also translation difficulties because in the encounter between English and Spanish the dominance and prestige of English tends to force translators into linguistic dependence on it in the form of neologisms, calques, and widespread borrowing. In a world dominated by English, Spanish becomes derivative; it drifts toward English in the same degree that the given society assimilates Anglo-American culture. The Spanish novelist Camilo José Cela cautions against this balkanization of Spanish; the Colombian Gabriel García

The author teaches court interpreting and translation at John Jay College, City University of New York.

Márquez disingenuously favors it when he advocates dropping the letter "h," which is not pronounced in Spanish, or omitting the accent marks, which many tend to ignore.

But the truth is that while the general public may dis-

regard the dictates of the Royal Academy, students may welcome the disappearance of the letters h, ll, j, v, and the z or of the accent marks, or Spanish Americanists may critize the dominance of peninsular Spanish, we language specialists cannot. We have to remind ourselves constantly of the nature of the language we are working

with: a specialized terminology arising from spoken or written texts that were primarily written to be read.

If one takes into account the added duties of translating foreign documents submitted as exhibits during hearings, as an EOIR's vacancy announcement states, it is clear that the vocabulary that an interpreter must handle is extremely broad, and that a beginning interpreter with only the minimum qualifications for the job—a four year degree from an accredited college majoring in Spanish or experience in progressively responsible positions in which translating and interpreting have been the major functions—would be hard put to provide exact equivalents in the target language.

Unfortunately, word lists available to immigration interpreters are not very useful; in trying to account for legal terms, regional variants, colloquialisms and slang their reach is broad but superficial, and since they are inevitably unreliable and incomplete they are ultimately ignored.

There are two dictionaries that show improvements over existing compilations: Butterworth's English Spanish Legal Dictionary (Austin: Butterworth Legal Publishers, 1991), and the Diccionario de términos juridicos by Enrique Alcaraz Varó and Brian Hugues (Barcelona: Ariel, 1997), now in a second edition. Butterworth's explains that an "order to show cause" is [una] orden judicial dirigida a una parte para que fundamente su acción o pretensión"—rather long-winded for interpreters who are doing the Master Calendar, it is no wonder they prefer to say orden de mostrar causa. In Varó and Hugues there is no entry for this item, although they define "show cause" as justificar, dar razones o explicaciones, fundamentar jurídicamente una pretensión. One will look in vain, however, for the Spanish equivalents of such terms as "stay of deportation" or "inquiry officer;" their repertory of immigration law terms is limited. We return then to the need.

and the responsibility, of interpreters and translators in immigration courts to develop skills as lexicographers and terminologists.

Likewise, a review of the glossary which accompanies The Office of the Chief Immigration Judge

We are dealing with

specialized terminolo-

gy arising from texts

that were primarily

written to be read.

What leads compilers to equivalents like these? Let us consider

Interpreter's Handbook reveals that a number of equivalents bear improvement: \*sostener la objeción, for "sustain the objection," or \*empleado de la corte for "court clerk," and \*acusación formal for "arraignment."

an expression found in the new law: the verb "to remove," used by the authorities to mean to eject someone from the country. Bilingual dictionaries list the verb remover as an equivalent of "to remove." It is not sufficient, however, to go to a general bilingual dictionary, for no matter how exhaustive, it will not prevent the novice translator from using it improperly as authority for his translations—that's why we see parking/towaway zone signs in front of business establishments which read: no estacione: violadores serán removidos (for estacionamiento prohibido/se usará grúa). Lest we think this is more amusing than harmful, consider the plight of the New Jersey welfare official who ran into trouble this year when his office mailed 100,000 copies of a letter, at a cost of 18,000 dollars—and which after loud protests from the community he had to correct and mail again—containing wrong translations such as violador bajo palabra for "parole violator," which a newspaper gleefully pointed out translates as "rapist under oath" (the translator could have used a transposition of the type noun=verb to render the English expression as: quien no cumpla con las condiciones de libertad condicional/quien no se sujete a las condiciones de libertad condicional).

How can translations be improved?

Check your translation with specialized bilingual and monolingual dictionaries.

Use as sources texts of the laws and books on legal procedure in both languages: Mexico has a *Guía del extranjero* (Porrúa, 1984); Spain has a *Ley y reglamento de extranjeria* (Madrid: Imprenta Nacional del Boletín Oficial del Estado, 1991), etc.

Question authority. The otherwise reliable Alfonso Torrents dels Prats in his *Diccionario de dificultades del inglés* (Barcelona: Editorial Juventud, 1976) renders "national" as *súbdito*, *natural*, *nacional* and *ciudadano*, and declares: when it comes to translating "national,"

some translators seem to have qualms about using the word *súbdito*, which is the most traditional of the four given. Of course those translators will not hesitate to translate "British subject" as *súbdito británico*, because they think that *súbditos* are the citizens of a monarchy. But in good Spanish we refer to a *súbdito inglés* but we can just as well refer to a *súbdito italiano*. Is Torrents dels Prats right? Not when it comes to translating for immigration court in the U.S., where *nacional* is a safer

choice.

Think about your technique: Are you guilty of the following: "I looked it up in the dictionary and that's what it says;" "I looked it up and it's not in the dictionary," "If I say it like this they're not going to understand," and "That's not how we say it in my country."

The following list is part of a longer compilation in preparation. Your criticism and comments are welcome.

### Vocabulary of the IIRIRA

abused alien extranjero que es víctima de malos tratos

abused immigrant spouses cónyuges inmigrantes maltratadas; víctimas de abusos; víctimas de malos tratos

advance parole libertad condicional anticipada advice of rights (Form I-294) aviso de derechos; notificación de derechos (Formulario I-294) advisal of rights aviso de derechos; notificación de derechos

affirmative asylum process proceso de asilo afirmativo

aggregate term of imprisonment pena de prisión total; periodo total de reclusión

alternate order of removal orden reemplazante de traslado forzoso

annual limit límite anual

Antiterrorism and Effective Death Penalty Act Ley de Antiterrorismo y Aplicación de la Pena de Muerte applicant solicitante

applicant appears genuinely afraid of persecution el solicitante manifiesta un temor genuino de persecución

applicant for admission solicitante de admisión applicant for political asylum solicitante de asilo político

application solicitud

application for admission solicitud de admisión application for adjustment of status solicitud de cambio de clasificación

application for cancellation of removal for certain permanent residents EOIR 42-A solicitud de cancelación del traslado para ciertos residentes permanentes EOIR 42-A

application for cancellation of removal for certain non-permanent residents EOIR 42-B solicitud de cancelación del traslado para ciertos residentes no permanentes EOIR 42-B arrival categories categorias de llegada arrival date fecha de llegada; fecha de arribo arriving alien extranjero que llega

article 3 of the Torture Convention artículo 3 de la Convención sobre la Tortura

asylee asilado

asylee application petición de asilo; solicitud de asilo asylee status condición de asilado

asylum officer funcionario encargado de solicitudes de asilo

Attorney General of the US Procurador General de Justicia de los EEUU, Ministro de Justicia de los EEUU

authorized fingerprinting center centro autorizado de huellas digitales

**authorized fingerprinting office** oficina autorizada de huellas digitales

automated nationwide system for immigration review sistema nacional automatizado para la revisión de inmigración

automated scheduling programación automatizada bars to asylum impedimentos al asilo

battered golpeado, golpeada

battered child niño golpeado

battered spouse esposa golpeada

**battered spouse/child relief** reparación para la esposa o niño golpeados

battered spouse waiver exención para la esposa golpeada

central address file archivo central de direcciones changed circumstances circumstancias distintas, diferentes

claimed status review revisión de la condición reclamada

clear and convincing evidence prueba clara y convincente

clear, convincing and unequivocal evidence prueba inequívoca, clara y convincente

**clearly and beyond a doubt** claramente y más allá de una duda

conditional grant otorgamiento condicional considered a danger to the community considerado un peligro para la comunidad

contempt of court contumacia; rebeldía; desacato continuance residence residencia continua continuous physical presence presencia física continua

credible fear review revisión del temor creíble crewman tripulante

criminal aliens extranjeros delincuentes custody redetermination hearing audiencia de redeterminación de custodia

defensive asylum process proceso de asilo defensivo deferred action acción diferida

**deferred sentence** sentencia diferida; sentencia suspendida; dictado de pena diferido

derivative status condición derivativa

discretionary relief reparación discrecional diversion program programa educativo o de trabajo

diversion program programa educativo o de trabajo para reos bajo régimen de libertad condicional employment authorization document documento de

autorización de empleo
entitled to be admitted con derecho a ser admitido

establish eligibility as a refugee establecer el derecho a la condición de refugiado

exceptional circumstances circumstancias excepcionales

exercise of discretion ejercicio de la discreción expedited hearing audiencia sin demora expedited removal proceeding procedimiento de traslado expedito; proceso de traslado expedito extreme cruelty crueldad extrema extreme hardship privación, sufrimiento, adversidad, necesidad, opresión extrema

factual allegations alegaciones de hechos; aserciones de hechos

Family Unity Program Programa de Unidad Familiar

firmly resettled firmemente restablecido forensic document analysis análisis forense de documentos

forensic document laboratory laboratorio forense de documentos

forms of relief formas de reparaciones frivolous asylum application solicitud de asilo sin mérito; insuficiente; sin fundamento jurídico gender related persecution persecución relacionada con el género having been found removable habiendo sido encontrado sujeto a traslado forzoso

Illegal Immigration Reform and Immigrant Responsibility Act Ley de Reforma a la Inmigración Ilegal y de Responsabilidad del Inmigrante immigration officer agente de inmigración; oficial de

inmigración
improper purpose propósito indebido
in absentia order orden en ausencia
inadmisible alien extranjero inadmisible
interactive scheduling programación interactiva
lawful permanent resident residente permanente

legal

lawful permanent residence residencia legal permanente

lawfully admitted admitido legalmente list of free legal service providers lista de proveedores de servicios legales gratuitos lottery lotería

maintenance of status and departure bond caución relacionada con la conservación de la condición y la salida

mandatory detention detención obligatoria message for toll-free number mensaje para número sin cargo

moral turpitude torpeza moral; conducta inmoral motion for termination petición de resolución naturalization ceremonies ceremonias de naturalización

naturalization court tribunal de naturalización naturalization papers carta de naturalización non-disclosure of record of proceeding no divulgación del acta del procedimiento nondisclosure proceeding procedimiento sin divul-

**nondisclosure proceeding** procedimiento sin divulgación del acta

non-immigrant no inmigrante

**non-immigrant exchange alien** extranjero bajo programa de intercambio no inmigrante

non-immigrant exchange visitor visitante bajo programa de intercambio no inmigrante

**notice of asylum-only hearing** aviso de audiencia sólo para asilo

notice of consequences for failure to surrender to the Immigration and Naturalization Service for removal from the United States aviso sobre las consecuencias de no entregarse al Servicio de Inmigración y Naturalización para ser trasladado fuera de los Estados Unidos

notice of consequences for failure to appear aviso de las consecuencias de incomparecencia

notice of consequences for knowingly filing a frivolous asylum application aviso sobre las consecuencias de a sabiendas presentar una solicitud de asilo sin mérito; insuficiente; sin fundamento jurídico

notice of consequences for failure to depart aviso sobre las consecuencias de no cumplir con la orden de salida

**notice of deportation hearing** aviso de audiencia de deportación

notice of hearing of deportation notificación de audiencia de deportación

notice of intent to issue a final administrative deportation order (form I-851) aviso de intención de expedir una orden administrativa final de de deportación (formulario I-851)

notice of intent to rescind notificación de intención de rescindir

notice of intention to rescind and request for hearing by alien aviso de intención de rescindir y petición de audiencia del extranjero

**notice of privilege of counsel** aviso del privilegio a la asistencia de abogado

notice of referral aviso de remisión

notice of referral to immigration judge aviso de remisión a un juez de inmigración

**notice of removal hearing** aviso de audiencia de traslado forzoso

notice of review of claimed status aviso de revisión de la condición reclamada

notice to alien detained for exclusion hearing (Form I-122) aviso al extranjero detenido para una audiencia de exclusión (Formulario I-122)

notice to appear aviso de comparecer; citación a comparecer

notice to appear for removal proceedings aviso de comparecer en el procedimiento de traslado forzoso one year rule regla de un año

parole admisión condicional; libertad bajo palabra parole admitir condicionalmente

parole someone into the U.S. admitir a alguien condicionalmente en los EEUU

parole board junta de admisión condicional paroled aliens extranjeros admitidos condicionalmente

parolee admitido condicionalmente

particularly serious crime crimen; delito particularmente grave

penalty pena, sanción, sanción penal, multa plausible in light of country conditions creíble, dadas las condiciones del país; verosímil, dadas las condiciones del país

preclude precluir; impedir; prevenir prima facie eligibility idoneidad, capacidad prima facie

record of negative credible fear finding and request for review by immigration judge (I- 869) acta de fallo negativo sobre temor creible y petición de revisión por un juez de inmigración (I-869) record of proceeding (ROP) acta del procedimiento records check verificación, inspección, comprobación, repaso, examen, compulsa, cotejo de los archivos, de las actas, de los documentos refugee refugiado

refugee status condición de refugiado; calidad de refugiado

removable alien extranjero sujeto a traslado forzoso removal traslado [al país de procedencia] traslado forzoso, repatriación, expulsión

removal hearing audiencia de traslado forzoso removal of inadmissible and deportable aliens traslado de extranjeros deportables e inadmisibles removal proceeding procedimiento de traslado removal process proceso de traslado; proceso de expulsión

remove trasladar; deportar; expulsar

remove at government expense repatriar a expensas del gobierno

remove from a vessel or aircraft hacer bajar a tierra de un barco o aeronave

remove undocumented aliens repatriar extranjeros indocumentados

reserved decision decisión reservada safe third country tercer país seguro sanctions for contemptuous conduct sanciones por contumacia

significant possibility posibilidad significativa special rule for battered spouses regla especial para esposas maltratadas

State Department response respuesta del Departamento de Estado

submit documents presentar documentos supplemental asylum application solicitud de asilo suplementaria

surrender for removal presentarse; personarse; entregarse para el traslado

swear in citizens tomar el juramento a los que adquieren la ciudadanía; ratificar la protesta del que solicita la ciudadanía; juramentar a quien adquiere la ciudadanía

swearing-in ceremony ceremonia de juramento; ceremonia de jura de bandera; jura de bandera

# INTERPRETING IS MUSIC TO MY EARS

### Scott Jackson Wiley

became interested in language during the many years I lived in Spain, where I studied classical guitar at the Conservatory of Barcelona and spent the first years of my professional life as a performer and teacher. Life in an environment where Spanish and Catalan were constantly spoken and my subsequent work as a conductor in French and Italian opera have been extraordinary stimuli and led me to consider using my language skills professionally. With this in mind, I recently attended a three-week intensive training program at the Agnese Haury Institute for Court Interpretation at the University of Arizona in Tucson. At the end of the course, I was honored to be asked to speak at the "graduation ceremony." An edited version of my remarks follows.

I did not attend this course with the idea of changing my profession from musician to interpreter, but I was interested in perhaps complementing the former with the latter if my apprehensions about interpreting turned out to be groundless. Like many others among us, I am planning to take the federal certification examination, and my highest expectation prior to arriving was that I would come away with a good sense of how to prepare for the test. That expectation has been met and surpassed many times over. There is, of course, no guarantee that I shall pass the test, but I do know now how to study for it. Those of us who are not aiming to take it

this fall know, too how to prepare for the eventuality, and certainly we are stronger interpreters by far for having been here these past three weeks.

That, however, is far from the whole picture.

I feel that my senses have been heightened, as though I had spent time with the old Indian in the books of Carlos Castaneda. In addition to the practical and theoretical knowledge I have gained, I feel that my "radar" and "sonar" equipment, so to speak, has been cleaned out, worked over, and juiced up. I am aware of being more aware, and I think that is true for most of us.

I know why. Although just being in the desert has been a powerful experience for those of us from other regions, I believe the heightened awareness is mainly the result of intereaction with an extraordinarily generous faculty, a well-planned curriculum, and a hungry and intelligent group of students.

As a musician, I am accustomed to being among people who are constantly searching and striving for improvement, people with a high sense of perfectionism and an ability for self-criticism; I am also used to attending intensive courses peopled with strong personalities and marked by deep student-mentor bonds. It is frequently found, either, outside my field. However, no experience I ever had as a musician has been more intense or rich than here in "interpreter's boot camp," as

(continued on page 10)

swearing-in session sesión de jura; sesión de juramento

temporary protected status condición protegida provisional

**transitional period custody rules** reglas de custodia del período de transición

vacated anulado; revocado; cancelado; rescindido visa waiver pilot program programa piloto de exención de visa

visa waiver pilot program agreement (Form I-775) acuerdo conforme al programa piloto de exención de visa (Formulario I-775)

voluntary departure salida voluntaria
voluntary departure at the conclusion of proceedings salida voluntaria al concluir el proceso
voluntary departure bond caución de salida voluntaria

voluntary departure order orden de salida voluntaria

voluntary departure prior to completion of proceedings salida voluntaria previa a la conclusión del proceso

voluntary removal salida voluntaria; traslado volun-

warning regarding knowingly filing a frivolous asylum application advertencia acerca de presentar a sabiendas una solicitud de asilo sin fundamento jurídico

withholding of deportation aplazamiento de la deportación

withholding of removal aplazamiento del traslado



### Web on the Web - Part I



### **Alexander Rainof**

harlotte, who makes it a point to be informed about such matters, was recently lost in admiration gazing upon a web and considering the dual use of this term so dear to all arachnids ro refer both to the Internet and to an educational technique. In many U.S. universities, the web technique consists of starting with a central concept and creating from it a network of related ideas which are in turn connected for pedagogical purposes to specific topics or words. This pedagogical approach yields excellent results regardless of the discipline.

In the case of translation and interpretation, for instance, the web would start with the central concept "translation/interpretation," then would branch out to "written," "sight," "consecutive," and "simultaneous." A further ramification could be "civil" and "penal," and various sub-topics would be added, such as "murder," "rape," "drugs," "firearms," "assault," etc. under "penal," and "probate," "product liability," "palimony litigation," "cloaking of assets," etc. under "civil." Keeping in mind Horace's dictum that the main goal of all teaching is to "inform and delight," that is, to convey

knowledge in an interesting and if at all possible, captivating way, Charlotte (a pedagogue at heart) was overjoyed with the discovery of Court TV's Web site <a href="http://www.courttv.com/">http://www.courttv.com/>.

Here is a truly magnificent site with a wealth of varied and interesting information that seems tailor-made for the Web method of training forensic translators and interpreters. Let us suppose, for instance, that an interpreter needed to brush up on probate terminology and proceedings, or that a professional organization such as NAJIT, or a university such as UCLA, wanted to provide training in this area. The Court TV site has posted, in extenso, the Last Will and Testament of several famous people such as John Lennon, Warren Burger, Richard Nixon, George Herman Ruth (Babe Ruth), Elvis Presley and Jacqueline Kennedy Onassis, at <a href="http://www.courttv.com/library/newsmakers/wills/">http://www.courttv.com/library/newsmakers/wills/>.</a> These wills can be downloaded in their entirety. There is little doubt that most people would be interested, as Charlotte was, in these documents, not only for their legal content but for the people involved. Training could be based on selected parts of these documents

(continued from page 9)

some have called it.

From the very beginning, I have been stunned by the parallels between music and interpreting. In fact, musicians, especially classical musicians, are often called interpreters. We both work in time and with sounds, both rely on the same skills of disassociation, memory, physical poise and delivery, and both are mediums in a sense. As a federal judge who addressed us here said, interpreting is not a science but an art. Above all, interpreters are performers in the same sense as musicians, actors and dancers. It is the act, the moment that counts.

Our teachers have been exemplary. We have had a battery of brilliant, passionate, compassionate, enthusiastic and utterly dedicated people who have taught us with the single most effective and inspiring method that exists: by example. They are truly *consecuente*, in the sense of practicing what they preach, living out the theory, putting themselves on the line.

My colleagues from Joyce García's class have asked

me to speak here today. To us she has been prima entre pares, first among equals, in the way she guided a class of spirited people with strong opinions. In Spain, among the gypsies, who are masters of pointed understatement, they talk about el saber estar, or "knowing how to be" (as opposed to the more prosaic savoir faire of the French), and it is a rare and elusive quality, a gift. Joyce not only knows how to be, but no doubt would also be called una buena aficionada, a good amateur, the highest accolade one flamenco can give to another. Of course: an amateur is one who loves what he does. During a typically animated discussion over a minor but telling point of translation, her warm dark eyes suddenly flashed jet black and she said, "In order to be good interpreters, we have to expose ourselves to life! We have to live life!"

We have, and we will. ■

Musician/interpreter Scott Wiley resides in New York City

according to the degree of technical difficulty they represent. For example, at the beginning level, one could select this passage: "I, Jacqueline K. Onassis . . . give and bequeath to my friend ALEXANDER D. FORGER, if he survives me, my copy of John F. Kennedy's Inaugural Address signed by Robert Frost if owned by me at the time of my death" or one could chose concluding section of her twenty-five page will: "IN WIT-NESS WHEREOF, I, JACQUELINE K. ONASSIS have to this my Last Will and Testament subscribed my name and set my seal this 22nd day of March, in the Year One Thousand Nine Hundred and Ninety-Four. Jacqueline K. Onassis subscribed and sealed by the Testatrix in the presence of us and each of us, and at the same time published, declared and acknowledged by her to us to be her Last Will and Testament . . . " which is rich in basic probate terminology and legal expressions. At a more advanced level, an excellent research and pedagogical tool would be this passage from Elvis Presley's Last Will and Testament: "I, Elvis A. Presley, a resident and citizen of Shelby County, Tennessee, being of sound mind and disposing memory . . . Having in mind the rule against perpetuities, direct that . . . each trust created under this will . . . (except such trusts as have heretofore vested in compliance with such rule of law) shall end . . . twenty-one (21) years after the death of the last survivor of such of the beneficiaries hereunder as are living at the time of my death; and thereupon that the property held in trust shall be distributed free of all trust to the persons then entitled to receive the income and/or principal therefrom, in the proportion in which they are then entitled to receive such income."

These passages can be used for cross-language training in written and sight translation, as well as for simultaneous interpretation into any target language. One would think, by the way, that the Last Will and Testament of a Chief Justice of the Supreme Court of the United States would be an awesome document, incredibly complex and thorough, covering every possible twist and turn of the law. The only such document posted on the Court TV site is the Last Will and Testament of the 15th Chief Justice of the United States, Warren E. Burger - it is eight lines long. The Court TV Web site has well over one hundred legal documents that can be downloaded and used for training and testing purposes. These documents, which range from a few pages to over one hundred pages per document, are grouped into five main categories: 1) "Miscellaneous Cases" <a href="http://205.181.114.35/">http://205.181.114.35/</a> Documents and library/misc/>; 2) "The Supreme Court" <a href="http://">http:// 205.181.114.35/library/supreme/>; 3) "Civil Rights

Documents and Cases" <a href="http://205.181.114.35/library/rights/">http://205.181.114.35/library/rights/</a>; 4) "Cases Involving Newsmakers" <a href="http://205.181.114.35/library/newsmakers/">http://205.181.114.35/library/newsmakers/</a>; and 5) "Hot Documents" <a href="http://205.181.114.35/library/hotdocs/">http://205.181.114.35/library/hotdocs/</a>. Several sub-categories such as "the Death Penalty," "The Nuremberg Trials," and "Tobacco Litigation" also post a wealth of documents. In each category the available documents can be used for vocabulary acquisition, sight or written translation, and training in consecutive and simultaneous interpretation. All make excellent testing tools as well. In subsequent installments of "Web on the Web" we shall examine some of these documents and show how they can be used for cross-language training and testing.

Two highly interesting and useful glossaries can also be downloaded from the Court TV URL. The first is "A Glossary of Legal Terms" where the terms are given in English with definitions <a href="http://www.courtty.com/">http://www.courtty.com/</a> glossary.html>. The glossary is fairly basic in the area of penal terminology. However, its usefulness resides mostly in the entries relating to employment and civil litigation. Terms such as "articles of incorporation," "binder," "defined benefit plan," "foreseeability," "nonexempt employees," "valid claim" and "wrongful discharge" are defined in clear and concise language. The second glossary is somewhat more arcane. It relates to the first international war crimes trial to be held since the Nuremberg trials at the end of World War Two. "International War Crimes Tribunal: A Glossary" <a href="http://www.courttv.com/casefiles/warcrimes/reports/">http://www.courttv.com/casefiles/warcrimes/reports/</a> glossary.html> defines such terms as "crimes against humanity," "ethnic cleansing," "genocide," "grave breaches," "violation of the laws or costums of war," and such concepts as "non-bis-in dem" and "nullum crimen sinc lege."

This concludes today's web on the WWW in Charlotte's Corner. Please remember that a byte in time saves nine, so we would be most grateful to all who share any useful URL they may have discovered. We will try to include them in Charlotte's Corner, and will give credit for the contribution. Please send your information, or questions, to Dr. Alexander Rainof, 1021 12th street, #101, Santa Monica, CA 90403; e-mail (arainof@ucla.edu); FAX (310-395-1885), or through my Web site (http://www.electriciti.com/~trey/alexis/). With your help, Charlotte's Corner will be TERRIFIC.

Dr. Rainof has written extensively about legal translation and interpreting.

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### IAFL and Court Interpreters

(continued from page 1)

State Courts' Consortium in their performance-based court interpreter tests was of particular interest, as was the description of New Jersey's experiences in applying these concepts in its own testing program.

The New Jersey experience is quite instructive because the state has tightened its standards over the years and now has a 3-tiered system of rates paid to its free-lance interpreters. The per diem rate ranges from \$125 for conditionally approved (trainee) interpreters to \$250 per day for master interpreters as determined by their performance on New Jersey's oral performance exam. Robert Joe Lee, Director of the Court Interpreting, Legal Translations and Bilingual Services Section, pointed out that this system encourages interpreters to continue to improve their level of skill in order to achieve greater economic rewards. To the best of my knowledge, New Jersey is the only state that employs economic incentives to encourage voluntary skills enhancement on the part of its interpreters.

Weiping Wu, a research associate at the Center for Applied Linguistics in Washington DC, also addressed other test development issues in his description of the test development procedure used by the U.S. Government to design tests to qualify candidates for linguist positions with the F.B.I. and other law enforcement agencies.

#### **Test Administration**

Christine Howard from the Maryland Administrative Office of the Courts described technological advances that could both enhance the security of the testing materials and reduce costs in test administration. Using a technical assistance grant from the State Justice Institute, Maryland has developed an interactive CD-ROM for the administration of the consecutive portion of the oral exam. Maryland has also produced a miniversion of an Interpreter Exam-Prep on CD-ROM that can be used at orientation sessions, community colleges and other sites accessible to the public so that potential candidates can make an initial self-assessment prior to making their decision to take the interpreter exam. Maryland anticipates that this will be a wise allocation of resources since it will provide potential candidates with the opportunity to make a realistic assessment of their skill level before actually taking the oral test, since administration of the exam places administrative and personnel burdens on state resources, often without a commensurate return for the state (i.e. identifying an interpreter who has the requisite skills to interpret in the state court system).

### **Test Content/Topics for Training**

Three of the more research-oriented linguistics presentations provided ideas for creating specific scoring unit items on future tests. They dealt with discourse markers, which are notoriously difficult to translate from one language to another, suggesting that the inclusion of these sentence components on interpreter tests would be useful in creating predictive and differentiating test items. In addition, analysis of discourse markers would be a good topic for in-service skills enhancement training sessions.

Likewise, the subtle - and not so subtle - changes in the degree of coerciveness that lawyers' questions undergo when interpreted and the effect that these changes have upon witness testimony was the subject of Susan Berk-Seligson's presentation. (She is the author of the much-cited book, *The Bilingual Courtroom*, University of Chicago Press, 1990). Here, too, differing degrees of emphatic questioning would be suitable both as test items and for in-service training.

# Alternative Models for Delivering Court Interpreting Services

Robert Joe Lee described the New Jersey pilot project using telephone interpreting. He pointed out the pitfalls associated with this delivery system and described what steps New Jersey took to avoid the worst outcomes using this highly controversial method of delivering interpreting services. It appears that contrary to the impression given by AT&T, there are many genuine concerns that must be fully addressed before this technology can be used with an easy conscience, not the least of them being the lack of credentialing of the interpreters used to provide these services and the lack of quality control typical of services furnished by for-profit providers.

Lois Feuerle is Coordinator of Court Interpreter Services, NY State Unified Court System.

### Mark your calendar:

The 19th Annual NAJIT Meeting and Educational Conference
May 15-17, 1998
San Antonio, Texas, USA

## All in the Details

(continued from page 1)

Association of Forensic Linguists, which holds biannual conferences, the most recent on September 4-7, Duke University in Durham, North Carolina.

Inquisitive court interpreters—quite a few of us, both sign and spoken-language, were in attendance, found their program attractive, not least of all because topics ran the gamut, intersecting with philosophy, English,

legal studies, dialectology, language arts, sociology, psychology, cultural anthropology, semantics, phonology and comparative anthropology. Quite a few sessions were included on interpreter administration, testing and monitoring, with Australia, the U.K., Japan, Hong Kong and the U.S. represented, and for good reason: in all these places, interpreter use is on the rise.

Traditionally, the term "linguist" has referred to someone who studies or speaks foreign languages. Although some interpreters or translators still use the term that way, linguistics as an academic discipline the scientific study of language—came into its own in the 1960's and has now branched out into various subdivisions, of which forensic linguistics is one. Some but not all court interpreters actually have a background in linguistics, and to judge from this conference, we would all be well advised to catch up with what is happening in the field.

Unfortunately, it is not widely known what forensic linguists study or how they can be useful in court. Judges and attorneys who stand to benefit the most from their knowledge are not even aware of their existence. Forensic linguists are roughly analagous to fingerprint experts, only of language. When people speak spontaneously, their "linguistic prints" are highly characteristic and can be described and compared to their language use in other contexts. Forensic linguists can examine in a scientific way the effects of known language in a known context, and thus can offer linguistic clues that may support or rule out multiple interpretations.

While it is true that everything is subject to interpretation, common sense and experience in language count for a great deal. If a witness says, "My mother will kill me," no expert need testify that this is a common way of conveying the speaker's fear that mother may not entirely approve. Indeed, attorneys often argue alternative interpretations of taped (English) conversations to the jury and leave the jury to draw its own conclusions.

Yet there are occasions when linguistic testimony might prove illuminating for juries and judges, giving them a better grasp of the array of factors that color meaning. Linguistic knowledge is often about things we

Justice for all, or only

for those who can use

language as a weapon?

suspect intuitively without knowauthor was? Was it the suspect, or

ing they can be analyzed scientifically. For example, if a written confession is introduced into evidence, how do we know who the

could it have been a fabrication by the police? A forensic linguist could help the jury understand why it is important to analyze the confession carefully, indicating specific "markers" to look for. These are the details an untrained eye will not see—and, as the saying goes, the devil is in the details. Like other experts, the forensic linguist can assist the trier of fact by providing a framework to understand the nature of the evidence. The message of linguistics is that how something is said—the form of a sentence or question—shapes and can even determine what is conveyed.

At the Duke conference, fascinating and disturbing research findings were reported about language use in court and other settings, both with and without interpreters. One study found that medical patients volunteering for research were mostly confused about the terms "medical study," "clinical trial," "medical experiment" and "clinical investigation," often not understanding the basic difference between research and treatment. To obtain ethically meaningful informed consent, then, doctors would need to ask patients directly about their understanding of these terms. Another study found, in the case of land rights for the aboriginal population in Australia, that the term "local descent group" had been variously interpreted over a ten-year period by judges according to what they believed was "common knowledge" (in contrast to the dictionary definition), and the judges' interpretations were not always consistent with anthropological knowledge.

Several presentations focused on "discourse markers," "function words," "content words," "focusing devices," "politeness markers," etc. Interestingly, it was found that hesitations and discourse markers were highly likely to be omitted by both transcribers and interpreters, perhaps because these words are considered unessential fillers; but they have emotional and emphatic impact and should not be omitted.

Malcolm Coulthard examined two texts, a police

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report and an earlier confession the report was allegedly based on; his analysis showed that the police had acted as amateur dramatists in creating a text that would appear to be a "spontaneous" confession. While confession is considered powerful evidence against an accused, statistics reveal it is the third leading cause of wrongful conviction after perjury and eyewitness error, as Gillian Gebler pointed out in yet another analysis of police interrogation techniques. Along the same lines, crass language and a baiting style used in cross-examination at a commitment hearing for mistreated Aboriginal teenagers in Australia was found to elicit frequent "gratuitous concurrence," getting confused witnesses to answer "yes" and contradict themselves. Even the so-called "dying declaration" exception to the hearsay rule (the law recognizes that just before death one is more likely to tell the truth) was debunked, as Bryan Liang, both doctor and attorney, illustrated all the ways in which reconstructed or reported speech can be distorted. He warned that "Everything can be moved from one place to another without being changed, except speech." In another session the anatomy of threats was discussed and a typology suggested. (Cultural norms vary here, too. In a recent Hong Kong case, "I hope we can sit down and have tea when this is all over" was perceived as a threat, causing the listener later to commit suicide.) One experiment using various versions of a jury charge on the "mental state" portion of an insanity defense found that jurors were often confused by the "If X, then not Y" construction; the most effective explanation was a tree diagram with the explanation rewritten in more accessible language. Several presentations focused on the language used in rape tri-

als, which by structured questioning places the victim once again in a situation over which she has no control.

The studies involving interpreters cited anecdotal evidence or small samplings of interpreter performance, but it was found that (1) interpreters often misinterpret (omit or change) entire portions of questions and answers; and (2) attorney control over testimony was mostly lost in cross-examination because interpreters lessened the degree of coerciveness in their interpretations of the questions. But the lack of training programs has plagued the profession since its inception, and these conclusions only confirm a need that is already acute.

Roger Shuy (author of Language Crimes) suggested further research is needed on the wording of the Miranda warning. Lawrence Solan (author of The Language of Judges, and keynote speaker at the 1994 NAJIT convention) proved an excellent guide to the literature and history of expert linguists in court. As Shuy pointed out, the fields of law and linguistics look at the same data with different eyes. Much linguistic research has already been done on what is called powerful and powerless language, conversational strategies, and the pragmatic and semantic aspects of communication. If there was a common thread to all the conference presentations, it was that the fate of the innocently accused can depend to a large degree on linguistic insights. The linguists at this conference were clearly well-versed in law; it remains to be seen whether the legal profession will take their cue and at long last discover linguistics. Law enforcement agencies have already begun to look at the investigative uses of linguistic analysis, which can be applied to electronically produced documents as well as handwritten ones.

### **Welcome New Members**

### May 1 through August 31, 1997

Jessica T. Abreu, Arlington, VA Grant L. Andersen, Mona, UT Lionel Bajaña, Jackson Heights, NY Delia M. Calderon, Chatsworth, CA California State University, L.A., Los Angeles, CA Alicia Cardenas-Short, Lacey, WA Ivelisse Cates, Albuquerque, NM Alison Mei Wa Chau, Richmond, BC, Canada Chean Chian, Cheong, Singapore Jackie Chung, B.S., C.E.S., F.C.S., Corona, NY Gabriella Coccia Rahoy, Jamaica Estates, NY Joseph F.Delgado, Ph.D., Columbia, SC Nilda Diaz Orta, Carolina, PR Pablo L.Donatti, Stafford, TX William H. Fields, Bethesda, MD Orpha Linda Flores, San Antonio, TX

Hilder Garrison, Naperville, IL Sormane P.Gomes, Media, PA Diana Maria Gonzalez, Phoenix, AZ Bruce S.Goodman, Crystal Lake, IL Chie H. H. Rubinstein, New York, NY Mariana Ericka Heynemann, Ipanema, Rio de Janeiro, Brazil Amy J. Johnson, Minneapolis, MN Howard Kendall, Las Vegas, NV Susana C. Landa, Santa Monica, CA Luis L. Lozada, M.A., Los Angeles, CA Michael Lurye, Brooklyn, NY James M. Lyons, Buffalo, NY Chieko Matsuda, Ikoma-gun Nara-ken, Japan Rosa María Mendizábal, Stratford, NJ María del C. Morales, Bayamon, PR Marshall Morris, Rio Piedras, PR

Alicia Nespral, M.A., M.B.A., Miami, FL Drasko Nikodijevic, New York, NY Jack W. Pockman, Millbrae, CA Elizabeth W. Reschke, Huntington Beach, CA Joan M.F. Rinker, Vineland, Ontario, Canada Blanca H.Romero, Chester, VA Salam Saade, Arlington, TX Dolores San Sebastian, Morristown, NJ Emily Sarasty, Lakewood, CA Alan Seagrave, M.A., Mickleton, NJ Elizabeth S. Smith, Norcross, GA Theresa B.Smith, Ph.D., Seattle, WA Argelia Y. Solano, Los Angeles, CA Bee Leng Tan, Singapore Kurt A. Thompson, Kirkland, WA Sandro Tomasi, New York, NY Narina K. Towle, Auburn, WA Rocío M. Valle, Daly City, CA Jane P. Van Kirk, San Juan, PR Marta S. Yablonka, Maple Ridge, BC, Canada Leah Yanushpolsky, Cherry Hill, NJ

### ITEMS OF INTEREST

November 5-9, 1997. San Francisco, California. 38th Annual Conference of the American Translators Assocation. Contact Conference@atanet.org, or American Translators Association 1800 Diagonal Road, Suite 220, Alexandria, VA 22314-2840. Telephone (703)683-6100 · Fax (703)683-6122

December 1-2, 1997, Orlando, Florida. Court Interpretation: Meeting the Challenge of Linguistic Diversity," workshop for court managers given by The Institute for Court Management (ICM) of the National Center for State Courts (NCSC). To register and for hotel information, please call the ICM registrar at (800) 616-6160.

December 9-12, 1997. Havana, Cuba. Taller Internacional de Lingüística Aplicada. Registration due by October 31, 1997. Contact: Prof: Emma López Segrera. Telef: (537) 7796132,7705094,77046771 Fax: (537) 335930, 335777774, 335842 E-mail: FLEX@comuh.uh.cu

April 23-25, 1998, Buenos Aires, Argentina. 2° Congreso de Traductores e Intérpretes. For further information: Colegio de Traductores Públicos, Avda. Callao 289 4° piso, (1022) Bs. As. Cap. Fed. Argentina. Telephone: 011-541-371-8616 or 372-7961011-541-476-2961 (fax) postmaster@bibtra.edu.ar

May 15-17, 1998, San Antonio, Texas, USA. The 19th Annual NAJIT Meeting and Educational Conference.



©1997 by Nicholas Luttinger. The artist is also a freelance Spanish interpreter based in New York.

### **MEMBERSHIP APPLICATION**

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