

**From:** stomasi@optonline.net  
**To:** Joshua\_wiker@ao.uscourts.gov, Javier\_soler@ao.uscourts.gov  
**CC:** Lucien\_adam@ao.uscourts.gov, Leonor\_figueroa@ao.uscourts.gov  
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**Subject:** Market Rates for Court Interpreters: A Bifurcated Dilemma

Dear Messrs. Wiker and Soler:

Thank you for presenting at the NAJIT conference in Providence, Rhode Island this past May. Your session allowed practicing court interpreters to get more acquainted with what the AOC is doing and also gave attendees a chance to ask questions and speak with you about the work on a more personal level.

You mentioned that the AOC may be looking into what other courts are paying interpreters to gauge market rates. This is a time-tested measure to find out how one compares with other competitors in the market. Nonetheless, you should know that this measure will produce misleading comparisons with the type of court-interpreter services that the federal courts provide based upon court-interpreter certification. In a nutshell, while the FCICE has an 80% cut score on the oral examination, the state court exams have a 70% cut score. This means that LEP court users in state courts, and the judges and lawyers with whom they communicate, are receiving second-rate interpreter services in comparison with the first-rate services provided by the AOC in the federal courts. As such, **state courts have created a mirage market rate** for "certified" court interpreters because the state court exams fall 10 percentage points below the federal standard. By contrast, cut scores for the court reporter exams in federal and state courts are 96% and 95% respectively. The federal courts set the benchmark for accuracy in the courts' transcripts and language interpretations, demonstrating that a high accuracy for LEP court users is just as important as it is for English-speaking judges and lawyers who rely on court transcripts.

Why are the federal courts providing first-rate court interpreter services for their LEP court users while the state courts are providing second-rate services? The federal Court Interpreters Act of 1978 mandates the AOC to certify court interpreters based on the results of **criterion-referenced performance examinations** and to seek the **highest standards of accuracy** for the interpreter services provided in the federal courts. In *Seltzer v. Foley*, (502 F. Supp. 600 [S.D.N.Y. 1980]), the court found that the criteria used by the AOC bore a rational and proper relation to the skills appropriate, necessary and required for precision interpretation and that the certification program satisfied the express and implied terms and intent of the Court Interpreters Act.

State courts, on the other hand, are only mandated to certify court interpreters without any legislated criteria on accuracy. So, while the federal courts compete for

the services of first-rate interpreters with other entities in the market — such as the United Nations, the Department of State, Fortune 500 companies, law offices and other businesses who cannot afford the liability of getting it wrong — state courts compete with schools, hospitals and agencies in a market for second-rate interpreter services, even third-rate services, i.e., interpreters who cannot even pass the state court exams with a 70% cut score.

I encourage you to continue hiring first-rate interpreters who can provide the highest standards of accuracy for communications between LEP court users and jurists in the federal courts. It is the right thing to do for LEP litigants who seek to have equal footing with their English-speaking counterparts who get to hear 100% of what is said in a courtroom as judges allow for repetitions and read-backs from the record. To be fair, I suggest you seek out a market comparison with institutions that hire interpreters who interpret with the highest standards of accuracy, not those that only seek to ensure a 70% accuracy rate.

By my estimation, the AOC would have paid a federal staff court interpreter around the equivalent of a JSP-7 pay grade in the 1970s — before the FCICE was created. In the 1980s, the pay grade went up to JSP-12 and in 1989, the Judicial Conference raised the pay grade to JSP-14. Perhaps you might find it necessary to recommend another pay-grade increase to the Judicial Conference in order to compete for the services of first-rate interpreters, i.e., those who have been identified by a criterion-referenced performance examination with the minimum skills to interpret with the highest standards of accuracy in the federal courts.

Throughout history, the federal government has been a lodestar in breaking down racial barriers. The AOC has provided first-rate interpreter services for the LEP communities that it serves. It is the state courts that need to catch up to the federal-court standards in quality of and compensation for court-interpreter services.

These materials on the education, experience and examination requisites for court interpreters may help the AOC to further bolster its court-interpreter certification program:

[Compensation Policies Show State Court Interpreters are Underpaid](#)

[Compensation of Court Interpreters in the State of New York](#)

Hoping to see you again at next year's NAJIT conference,

Sandro Tomasi