

SPRING 2002

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ACIA COMMUNIQUÉ

ACIA: LOOKING BACK, MOVING FORWARD BY: PATRICK O'CONNOR

I am honored and excited to be your new President and I look forward to a productive and meaningful two years. We accomplished a lot in 2001, holding valuable workshops and presentations, starting a website (aciaonline.org), and getting involved in an issue of potentially tremendous impact on many court interpreters around the state: whether Arizona should join the Consortium or develop its own state certification program. I think the future will see more of this type of involvement and I see ACIA growing and becoming an ever more important asset and resource to increase professionalism in our field.



Judge Sylvia R. Arellano swears in new ACIA board members, from left: Pat O'Connor, Sary Tavrytsky, Gabriella Lindsay, Kathleen Penney, and Cristina Sporrer. (Photos by Marcia Hernandez-Resler)

On December 8th, ACIA members gathered at the home of Lita Van Duzer in Scottsdale to socialize and to participate in a discussion on the Consortium issue,

headed by Judge Sylvia R. Arellano. ACIA sends a heartfelt thank you to Judge Arellano for her contribution to our awareness of this timely and important subject. Later, the votes were tallied and five new board members were elected: yours truly; Kathleen Penney, Vice-President (Sup. Court, Phoenix); Gabriella Lindsay, Secretary (Sup. Court, Phx.); (continued on page 3).....

'CONSORTIUM' RECOMMENDATION NEAR BY: PATRICK O'CONNOR

As a member of the Interpreter Issues Committee (AZ Minority Judges Caucus), led by Judge Arellano, I've been involved in the issue of whether AZ should join the 'Consortium' for state certification or rely on its own resources, including a test de-

veloped by Dr. Roseann Dueñas González, U of A. For several months, the Committee has been preparing a Recommendation on Interpreter Need & Practice. Nearly complete, the report includes analysis of current standards; lesser-use lan-

guages; interpreter certification and education; ethics, and recommendations.

ACIA firmly believes ongoing interpreter training must be a component of any statewide certification program in order to insure professional standards.



Kathleen Penney, ACIA Vice-President, is a staff interpreter at Maricopa County Superior Court.

“But guns are messy and require a lot of clean-up, and then there’s the minor issue of criminal charges...”

WANTED

ARTICLES FOR THE COMMUNIQUÉ, ALL SUBJECTS RELATED TO INTERPRETING WELCOME. AUTHORS MUST HAVE STRONG DESIRE TO EXPRESS THEMSELVES AND TO MAKE THEIR VOICE HEARD!

THE HAPPY ZAPPER - A FANTASY

BY: KATHLEEN PENNEY

I recently read an article about how probation officers will now be allowed to carry firearms. They claim they will now feel safer and will better perform their duties.

I work with P.O.s and several are my friends so this article stuck in my mind and I was thinking about it as I sat at defense table one morning to interpret pre-trial motions with a County Attorney who not only mumbles but also speaks softly into his tie.

Sure enough, after asking him (in a professional way,

of course) to ‘please speak up for the interpreter’ 562 times, receiving glares and no improvement, I began to fantasize.....hmm, some people just need a little more reminding: how about ‘Interpreter Issue Guns!.....

But guns are messy and require a lot of clean-up and then there’s the minor issue of criminal charges...So, how about a mini cattle prod? A small 2 X 3 inch device with a telescoping wand that makes a whirling sound upon activation... comes in trendy colors or basic black...has a range of

15 feet fully extended... Think of the possibilities! At Depos!

‘Now, Mrs. Dominguez, isn’t it true that on the day in question you were driving eastbound on Southshore Street about 10 miles over the speed limit on your way to visit your sister-in-law, or maybe it was your mother-in-law, when you say you didn’t see –or did you?– the car that had either stopped or slowed down as it approached the intersection, is that correct?’

Whirrr–ZZAP!



WIN

A \$35 Gift Certificate!

**If you are the lucky raffle ticket holder
At the ACIA Spring Meeting and Workshop**

March 16 9:00



DONT MISS OUT! BE THERE!



Or in court: *(The Judge, reading Jury instructions): ‘It now becomes my duty to tell you the rules of law that you must...’*

Whirrrrr–ZZAP!

Aforementioned County Atty:

Whirrrrr–BZZAP!!

A defense attorney:

‘Your Honor, my client informs me his mother wants to address you before sentencing but she seems to be lost in the building. Would the interpreter go and look for the mother and bring her back?’

Whirrrrr–ZZAP-BZZZZAP!

Interviews:

‘Ask him...’

Whirr–ZZAP

‘Go ahead and read him this plea and get him to sign it,

Whirr–ZZAP!

On the chain:

‘I’m your attorney and this is your plea which expires today- if you don’t do it we’ll set it and waive time, whadya want to do?’

Whirrr–ZZ-BZZAP!

‘I know we have a language problem so let me know if

you don’t understand the interpreter.

Whirrrr–ZZZAP!

I snap back into reality as I realize the ‘Mumbler’ is reading something at breakneck speed and the court reporter has that deer-in-the-headlights look. Both our hands shoot up: “Counsel...” Hmmm....

Court reporters would be issued zappers that attach to their machines and make a ‘wheee’ sound:

Wheee–ZAP ZAP ZAP!

JUROR MISCONDUCT: A CASE IN POINT

(230 CAL.APP.3D 300)

In Arizona, as in many states, when a trial involving a Spanish or other language-speaking defendant or witnesses begins, the judge should instruct the jurors that the evidence they are to consider is only that provided through the official court interpreter and that they must accept the English interpretation. If not willing to do this, a potential juror can be disqualified from serving.

In a case from the California Court of Appeal, the

case summary reveals that a jury convicted the defendant of committing lewd acts upon his stepdaughter. During deliberations, one of the Spanish-speaking jurors 'retranslated' defendant's testimony, telling her fellow jurors that defendant testified he "pushed" the stepdaughter when trying to get her to do chores rather than that he "touched" her as the court interpreter had rendered the testimony. Other jurors expressed other disagreements with the inter-

preter's renditions. Without conducting an evidentiary hearing, the trial court denied defendant's motion for new trial based on juror misconduct, finding that the jurors' actions constituted misconduct but there was no prejudice to defendant.

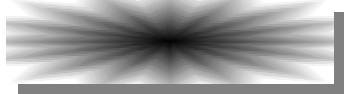
For the Court of Appeals Judges, there were 3 main issues: 1) Did a juror commit misconduct in retranslating for other jurors a portion of testimony as (Continued on back page—can you guess the Court of Appeal's decision?)



A kiss on the Blarney Stone from ACIA to you!

Listen to the Leprechaun:

"To avoid a pinch, you'll be sure to wear your green at the March 16th meeting!"



ACIA ANNOUNCES SPRING MEETING/WORKSHOP

Saturday, Mar. 16th, 9:00 a.m. at Westwood Hills Clubhouse, 1941 W. Calle del Reposo, Tucson.

Consecutive, Simultaneous and Sight Translation Workshop
For everyone studying for the Federal exam or wanting to improve their interpreting skills



Take Speedway exit off of I-10, go west about 1.5 miles to Silverbell, turn south to next light (St.Mary's), west to Camino Santiago, (3rd street on right), then north two blocks to Calle del Reposo, left, 1 block to clubhouse. Lost?: 520-240-3003
We suggest bringing a cassette recorder with headphones to record yourself



WELCOME! ACIA WELCOMES NEW MEMBERS:

MONICA CONTRERAS,
SPANISH

OLIVIA Y. ESCOBAR - TRUJILLO
SPANISH

LAURO GARCÍA,
SPANISH

GENA LYNCH,
SPANISH

CRISTINA PARRA,
SPANISH

ISSA PETERS,
ARABIC

KATHLEEN SCHABEN,
SPANISH

GIANNI TORRES,
SPANISH

IF I MISSED YOU

MOVING FORWARD...

(CONTINUED FROM PAGE 1)

Sary Tavrytzky, Treasurer (Fed. Certified freelance, Phx); and Cristina Sporrer, Recording Secretary, (Fed. Court, Phoenix). Some recent and current projects we're tackling include the next ACIA meeting/workshop on March 16 at 9:00 a.m., development of a new mission statement, outreach to medical interpreters, updating the brochure and member application, and creating a membership list to

possibly put on the website with e-mail links.

Another important goal will be reaching out and encouraging participation by interpreters of languages other than Spanish.

In summary, I'm looking forward to leading ACIA so it can become an integral part of the court interpreting scene in Arizona.



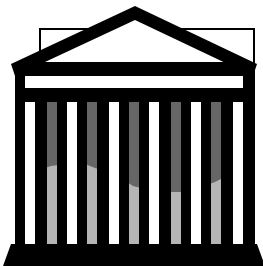
Interpreters and Judge Arellano enjoy themselves at December 8th Posada

Arizona Court Interpreters
Association

P.O. Box 4283
Phoenix AZ 85030

We're on the Web!
www.aciaonline.org

ACIA



“The judges also agreed that the perceived error in interpretation was not prejudicial.”

JUROR MISCONDUCT (CONTINUED FROM PAGE 3)

translated by the court interpreter?; 2) If so, was this misconduct prejudicial under the facts of this case?; and 3) There was evidence other Spanish-speaking jurors told the others that mistakes were made in interpreting testimony and retranslated some of the testimony for the other jurors: did the trial court err in not conducting an evidentiary hearing into the potential prejudice to defendant?

In its discussion, the Court of Appeal judges generally agreed there was misconduct: “Ms. Leon committed misconduct when she gave her fellow jurors her own version of defendant’s Spanish-language testimony...Penal Code section 1181, sub. 2 authorizes a new trial ‘when the jury has received any evidence out of court...’ A juror may not...

gather evidence from outside sources and bring it into the jury room. *It is also misconduct for a juror to inject his or her own expertise into the jury’s deliberations.* [People v. Marshall (1990) 50 Cal.3d 1, 21] (emphasis mine)

Later, the judges have some interesting comments: “Juror committed misconduct by failing to rely on the court interpreter’s translation, as she promised during voir dire. She committed further misconduct by sharing her personal translation with fellow jurors thus introducing outside evidence into their deliberations. If Juror believed the interpreter was translating incorrectly, the proper action would be to call the matter to the trial court’s attention, not take it

upon herself to provide her fellow jurors with the ‘correct’ translation.”

However, the judges also agreed that the perceived error in interpretation was not prejudicial: “The presumption of prejudice is rebutted if the outside evidence is neutral or irrelevant to defendant’s guilt. It was irrelevant to the issues in the case whether defendant “touched” or “pushed” I. In attempting to get her to perform household chores.”

The judges concluded: “... the trial court did not abuse its discretions in failing to conduct an evidentiary hearing. The judgment is affirmed. The petition for writ of habeas corpus is denied.”
