

Short Minutes Transcript: Will Your Translation Withstand the Challenge?

Solicitors occasionally have to explain important complex documents to clients who can't read or speak English.

Even if the solicitor is fluent in the client's native language, it is not advisable for the solicitor to be the translator. If the client's understanding of the document is challenged later, the solicitor may well be in an embarrassing conflict situation.

It is also not advisable for a friend or family member of the client to be the translator as they may not be sufficiently competent in the language, and there is a possibility that they will not be independent of the transaction.

This leaves a NAATI (National Accreditation Authority for Translators and Interpreters) qualified person as the preferred translator of this type of document.

So, do you know the difference between an interpreter and a translator for this purpose?

And, do you know which level of qualification is necessary to competently translate this type of document?

Most legal documents require either a NAATI certified Professional Translator or Advanced Translator.

The Supreme Court recently considered the required level of certification for the translation of a will to the testator.

The solicitor retained an interpreting service which provided the services of a person who was accredited as an interpreter and not a translator. In fact this was the first will that she had translated for a client.

The court found that the interpreter was in some ways an unsatisfactory witness. The court had reservations about her evidence and in particular her oral evidence in relation to the translation of the will. However, the will was upheld thankfully on the basis of the extensive file notes kept by the solicitor of his instructions which were reflected in the terms of the will.

When instructed by a client who cannot read or speak English care must be taken to ensure that the appropriately accredited translator or interpreter is retained.

A link to the case and NAATI's website can be found below:

- [Barakett v Barakett \[2016\] NSWSC 1257](#)
- www.naati.com.au

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