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INTERNATIONAL COURT REPORTERS – CHINA

One of our clients two weeks ago asked us if we could provide a court reporter and legal videographer for a deposition in Dalian, China. I started researching the location and Chinese law regarding taking a deposition in Mainland China.

The first thing I found out was Dalian is a major city and seaport in south Liaoning Province in Northeast China. Using Google maps, I also learned that Dalian is over 500 miles from Shanghai. Shanghai has the nearest videoconference facility available for public use.

Upon further investigation I found out that traditionally, Chinese authorities do **NOT** recognize the authority or ability of foreign persons, such as American attorneys, to take voluntary depositions of willing witnesses, even before a U.S. consular officer, Article 27(1) of the U.S. – China Consular Convention of 1980 notwithstanding. The U.S. Department of State, Bureau of Consular Affairs, reports that the United States is seeking a clarification from the People’s Republic of China regarding its recognition of the right of U.S. Consular Officers to take voluntary depositions of U.S. citizens in China.

The State Department provides the following: *“Taking evidence in China for use in foreign courts is problematic. China does not recognize the right of persons to take depositions, and any effort to do so could result in the **detention and/or arrest of U.S. citizen participants.**”*

Upon discovering the consequences of swearing someone in to give testimony, I advised my clients that everyone would be at risk involved in the deposition, my court reporter, my videographer, and the attorneys themselves. I would never want to see anyone thrown into a Chinese jail because of attempting to take a deposition.

Solution: Videoconferencing. We have set up the deposition to have the American participants attend the deposition at our conference center in San Diego and have the witness in Shanghai. We will suggest to the attorneys they not ask the court reporter to “swear” the witness in, because that could potentially put the witness at risk. The State Department suggests that attorneys fly the witness to a country that doesn’t have the laws/restrictions such as China does.

The world is getting smaller all of the time as businesses go global. Kramm Court Reporting is always looking for ways to use technology to save attorneys money, time, and still get the job done. More importantly we protect our court reporters and legal videographers – certainly never wanting to break the laws of China (and ending up in jail).



DISCOVERY
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