

PRACTICE BRIEFING

Correctly Addressing Parties, Counsel and Witnesses of Asian Descent

INTRODUCTION

In some cultures, individuals' names are ordered in a way that's likely to be unfamiliar to most New Zealand lawyers.

The inverse order (from a Western perspective) of many Asian names has caused confusion in some legal proceedings, prompting Chief High Court Judge Geoffrey Venning, in 2015, to remind lawyers to ensure they address individuals appropriately and respectfully, both in pleadings and in court.

This Practice Briefing explains how some Asian (particularly Chinese) names should be presented and used, and recommends that solicitors and counsel clearly ascertain from their clients how they prefer to be named.

CHANGING DEMOGRAPHICS

More and more migrants from Asia are settling in New Zealand to live. The 2013 census suggests that 7.1% of New Zealand lawyers are of Asian descent, while 2014 figures from Victoria University show that 11% of its law students are Asian. In 2013, almost one in every four people living in the Auckland region identified with one or more Asian ethnic group.

THE ISSUE

Justice Venning notes that inconsistent practice regarding intitlements of pleadings and the way that parties are referred to both in written submissions and orally has potential to cause confusion in legal proceedings.

This is because not all Asian names are set out in the traditionally inverse Eastern order in court documents.

THE TRADITIONAL ORDER

Many names of Asian origin comprise a surname/family name (usually monosyllabic) followed by a given/personal name (usually of one or two syllables). Most Chinese, for example, use personal titles/honori-fics such as Mr and Mrs followed by their surname and then their personal name/s.

For example, in the traditional Eastern order someone called John Hancock would be referred to as Mr Hancock John.

Another example: The current Prime Minister of Singapore is Lee Hsien Loong. Lee is the Prime Minister's family name, and Hsien Loong are his given names. In the traditional Eastern order, his full name would be written: Prime Minister Lee Hsien Loong – that is, honorific, family name, given names.

He has two first or given names – Hsien Loong. Both should be used, and indeed an individual may prefer their first names to be hyphenated – such as Hsien-Loong.

NON-LEGAL ENGLISH NAMES

Many Asians will go by a Western first name (e.g. George or Sally), but have not gone through the formal process to legally change their name. Practitioners should ensure that court pleadings and conveyancing documents use their client's legal name, as indicated on a passport or driver's licence, rather than their client's informal English name.

PRONOUNCING CHINESE NAMES

The names of people from mainland China are transliterated from the Chinese script into the Latin alphabet, using the pinyin romanisation system. While most letters are pronounced roughly the same in English as in the pinyin system, some letters, and combinations of letters, are not. Learning the following differences between pinyin and English can greatly enhance one's pronunciation of Chinese names:

Pinyin	English equivalent
zh	j
x	sh
q	ch
i	ee

So Zhang should be pronounced as Jang, and Xi should be pronounced as She.

BEST PRACTICE

The standard practice that has developed in New Zealand is to list the client's given name/s, followed by their family name. This is how most Asian names are listed in court pleadings, the Companies Office, and on property titles. To ensure consistency, we recommend following this approach.

However, if clients prefer their name to be presented in the traditional Asian order (surname first), then this is also acceptable, provided that this is presented in a clear and consistent fashion.

Justice Venning suggests lawyers highlight or underline surnames when filing pleadings, and then use names consistently when referring to the client, witness, counsel, or other party. Another common approach is to capitalise each letter of the surname. Emphasising the surname in these ways is especially important if the name is listed in the traditional Asian way (surname first).

Lawyers are advised to ask clients of Asian origin how they prefer their name to be presented to the court orally, and in written documents, and use this consistently.

SUMMARY

- » Asian names are often presented differently to Western names, with the familiar order of honorific, given name, family name reversed to: honorific, family name, given name/s.
- » The different order of names can cause confusion in legal proceedings, unless surnames/family names are clearly indicated and distinguished from given names/first names. Name order should remain consistent throughout proceedings and in all documents. If a client has two given names, they should be addressed by both.
- » Lawyers should clearly ascertain their client's preferred name order, and make their preference obvious to the court and other parties.
- » Reduce confusion by highlighting, capitalising or underlining family names in initiating documents.

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