

Dear Colleagues and Friends,

The following is a chronology of MACI's history since its inception in 2014. After many meetings of *per diem* interpreters working as a focus group and as a steering committee, and after many brainstorming sessions to figure out how to reach our goals and make our grievances known, we decided that becoming an association was the next best thing to unionizing, especially because forming a union was precluded to us as non-employees.

## **2014**

1. On November 28, 2014, the Massachusetts Association of Court Interpreters was incorporated as a non-profit corporation.
2. On December 5<sup>th</sup>, we held our First Annual Meeting.

## **2015**

1. In April, MACI sent a letter to all the judges in the Commonwealth, alerting them to the dangers posed by the use of video remote, telephone interpreting and interpreting agencies, by the Office of Court Interpreters ("OCIS"), which was decreasing the use of certified and screened *per-diem* court interpreters. We also pointed out the possible violations of U.S. Department of Justice ("DOJ") mandates pursuant to Title VI of the Civil Rights Act.
2. In May, by invitation, we made a presentation at the New England Translators' Association's (NETA) Annual Conference.
3. On June 19<sup>th</sup>, MACI sent a letter to Judge Carey, then Administrator Harry Spence, Judge Fein, Judge Ronquillo, and Coordinator Erika Rickard, regarding the lack of increase in compensation in, at that time, 7 years.

4. On June 19<sup>th</sup>, MACI sent a letter to Deanna Jang, Chief of the Civil Rights Division of the DOJ, alerting them of the violations to Title VI by the Massachusetts Trial Court.
5. On June 26<sup>th</sup>, several MACI members attended the Second Conference of the Massachusetts Language Access Coalition in Worcester.
6. On September 18<sup>th</sup>, members of the MACI Board of Directors met with Atty. Erika Rickard, Interim Language Access Coordinator and Coordinator of Access to Justice, to voice our concerns and grievances regarding compensation and working conditions.
7. Unionization continues to be a goal, though not attainable at this time, largely, because we have been classified as independent contractors, and not as employees. Our close association with SEIU Local 888 availed us of their many organizing resources, including legal and legislative.
8. In late August MACI sent out a Press Release, making public our concerns regarding the Trial Court's depriving LEPs of their constitutional right to equal access to justice in violation of Title VI. Interviews with the "Lowell Sun" and WBUR followed.
9. During the months of July, August and September, MACI assisted our attorney, Alan J. Rom, in the drafting of a class action suit against the Massachusetts Trial Court.
10. On October 16<sup>th</sup>, MACI filed the lawsuit before the Single Justice Session of the Supreme Judicial Court ("SJC"), naming Harry Spence, Maria Fournier and Bruce Sawyer as defendants. In tandem with the filing, we issued a Press Release, prompting a follow-up interview by the "Lowell Sun" and an article in the "Massachusetts Lawyers' Weekly".
11. During the month of October MACI launched its website.
12. On November 8<sup>th</sup>, MACI held its Second Annual Meeting.

## 2016

1. In February, upon a motion from the Attorney General, MACI's lawsuit was sent to the Superior Court by the SJC.
2. In March, our attorney filed an Amended Complaint in Superior Court adding claims of retaliation to the original Complaint.
3. In March, MACI filed a Brief *Amicus Curiae* in support of Petitioner, Aifang Ye, in her case seeking U.S. Supreme Court review of an adverse decision by the 9<sup>th</sup> Circuit Court of Appeals, invoking her right to confront and cross-examine an interpreter used by the authorities to interview her..
4. In May, the Attorney General filed a Motion to Dismiss our Complaint on the grounds of "Sovereign Immunity". Our attorney filed our opposition, arguing that this archaic law should be abrogated. The AG also argued that the Wage Law did not apply to persons who are not employees.
5. On June 28<sup>th</sup>, the Motion to Dismiss was heard at the Suffolk Superior Court by Judge Tochka, who expressed his admiration for the interpreter profession, as well as his reluctance to abrogate a law that no superior court judge had ever abrogated before. He took the Motion under advisement.
6. In June, with the assistance of SEIU Local 888, members of the Board of Directors met with the State Rep. Paul Mark to talk about the issues affecting *per-diem* court interpreters.
7. In September, MACI sent out a Ten-Point Position Paper to all *per-diem* court interpreters, listing all the unofficial changes, abuses, inconsistencies in Trial Court treatment of interpreters, all in violation of the S & P, and giving explanations and suggestions as to how to respond to those abuses.
8. In October, MACI board members met with State Sen. Jehlen, and State Sen. Chang Diaz's aide. All three legislators with whom we have met

encouraged MACI to continue our efforts, and were very receptive and supportive of a legislative initiative.

9. On November 3<sup>rd</sup>, after more than four months since Judge Tochka took the defendants' Motion to Dismiss our Complaint under advisement, he issued his ruling. It was a mixed decision, meaning that he allowed some parts and denied others. The judge allowed MACI to continue with its claim that the Standards and Procedures ("S & P") constitute a contract that the defendants violated. He granted the other parts of the Motion to Dismiss.
10. During the last half of 2016, our attorney communicated several other complaints to the Attorney General's Office, such as the denial of badges and a lack of a certification program for new interpreters and those that were in a position to receive certification.
11. On November 5<sup>th</sup>, MACI held its Third Annual Meeting.

## **2017**

1. On February 1<sup>st</sup>, our attorney, on behalf of MACI, filed a Request for the Production of Documents, as we proceeded to trial.
2. Eventually, the defendants responded claiming that our request was "unreasonable", "burdensome", and that most of what we requested was unattainable, and that it should be limited to the five named plaintiffs.
3. In March, OCIS was audited by the State. The audit harshly criticized Maria Fournier's administration and also suggested, among other things, that interpreters should be paid less for the long periods they spend waiting in court. MACI responded directly to the State Auditor with a scathing critique of this misguided audit, and sent its critique to "Lawyers' Weekly", which published a highly-critical article. MACI'S critique and the "Lawyers' Weekly" article may have been instrumental in the removal of Maria Fournier.

4. On March 31<sup>st</sup>, several MACI board members, together with our attorney, Alan J. Rom, met with the Assistant Attorney General and the Trial Court lawyers. We explained how the unofficial, unlawful changes and *ad hoc* policies of Maria Fournier, Bruce Sawyer and Harry Spence violated the S & P, which governs all matters pertaining to compensation and working conditions of *per-diem* court interpreters.

Following the meeting, MACI'S attorney memorialized the concerns raised at the meeting in a letter to the Assistant Attorney General. MACI was promised a response to that letter with a formal proposal in an effort to settle the case.

Not too long after our meeting, MACI received news that Maria Fournier was removed from her position at OCIS.

5. In September, after an insulting settlement proposal from the AG'S Office, sent to our attorney in August (the settlement proposal MACI had been promised), he responded by proposing a comprehensive Consent Decree, detailing specific terms with which we could agree.
6. On November 4<sup>th</sup>, MACI held its Fourth Annual Meeting.

## 2018

The new year found us with the determination to proceed to trial, having come to the realization that the AG'S Office, the Trial Court and OCIS had not acted in good faith, while intimating that they wanted to settle rather than go to trial.

1. In January, in response to our Consent Decree, the AAG sent us another proposal for settlement, which was equally as insulting as the one in August.
2. In February, MACI'S attorney sent a letter to the Assistant Attorney General rejecting its January proposal and submitting a Motion to Amend the Class and Compel the Production of Documents.

3. In March, Atty. Rom served a Motion to Substitute Party Defendants and to Redefine the Class. This was, in part, due to the fact that the Original Defendants were no longer employed by the Trial Court.
4. On May 22, the Defendants filed a Motion To Conform Pleadings, requesting that the Court dismiss the individual Defendants from the lawsuit, claiming that the legal action lies only against the Trial Court. They similarly requested that MACI be dismissed as a Plaintiff, arguing that MACI had no legal relationship, contractual or otherwise, with the Defendants or the Trial Court.
5. On May 30, our attorney filed Plaintiffs' Opposition to Defendants Motion,
6. These competing procedural motions were heard on July 19 at the Suffolk Superior Court, again before Judge Tochka, who took it under advisement that day.
7. On August 21, Judge Tochka made his ruling, which we received on August 30<sup>th</sup>. It was a split decision, mostly in our favor. The Judge allowed the Plaintiffs' motion to redefine the class, and allowed Plaintiffs' motion to add the Executive Office of the Trial Court as a party defendant, which the Defendants tried to get dismissed. The judge denied the Defendants' motion to dismiss MACI as a plaintiff. (They argued that its members, not the association, are parties to the contract, and which Atty. Rom was able to demonstrate was otherwise.) The judge did allow the Defendants motion to dismiss Spence, Fournier and Sawayer as plaintiffs, and not name their individual successors.
8. Attorney Rom redrafted the documents request, and if they were to refuse to give them to us, we would return to court with a motion to compel.
9. I the previous court hearing, where the court made clear that he was going to bifurcate the case, meaning that he would first try the issue of whether

the S & P constitutes a contract based on the five individually-named plaintiffs, instead of the class. Therefore, on October 12, 2018, Atty. Rom mailed a Second Request for Production of Documents to the Assistant District Attorney. The first Request had been very broad and looked to prove the issue of whether per diem interpreters were employees. Since serving that request for documents, the court ruled and dismissed those claims, so Atty. Rom tailored this request to the issue of proving violations to the S & P.

10 Late in October per diem interpreters were invited by OCIS to send comments regarding the proposed new Standards & Procedures (S & P). MACI did so in great detail, expressing our concerns and discontent with many of their changes and omissions. Many interpreters, also, sent their concerned comments.

11. In late October the AAG sent Atty. Rom the Interrogatories for the five named Plaintiffs, which he email to the plaintiffs on November 1<sup>st</sup>. The Plaintiffs also received documents produced by the Defendants.

12. On November 2<sup>nd</sup>, the DOJ notified MACI that they had found that the evidence we presented claiming that the Trial Court of Massachusetts had violated Title VI of the Civil Rights Act of 1964, by consistently failing to provide LEP individuals with timely and meaningful access to language and justice, was insufficient. But, they vowed to keep their eye on it, and assured us that we could again present our case should the need arise.

13. On November 3, 2018 we held our Fifth Annual Meeting.

## **2019**

1. During the months of December 2018 and January 2019, the five named Plaintiffs worked on their responses to the Defendants' Interrogatories, with the assistance of Atty. Rom, and continued preparing for the depositions through March and beginning of April.

2. On February 8, we received, along with all per-diem interpreters, a “progress report” from Sybil Martin, listing, among other things, several projects and accomplishments in the interest of improving the delivery of interpreting services. It spoke about the plans that OCIS has for streamlining interpreter services, by implementing scheduling software to replace the paper system we had until then, working with regional coordinators to supervise staff interpreters and oversee per-diem interpreters. The report also announced the hiring of new per diem interpreters, after testing, training and mentoring programs.

The report also informed us that the 221C Committee (221 is the chapter within the Massachusetts General Laws which concerns Court Interpreters of the Trial Court) was currently meeting to review and consider all of the comments made in relation to the OCIS Standards and Procedures (S & P).

3. On February 28<sup>th</sup>, MACI responded to that report, citing its vagueness and failure to address the issues that most matter to per diem interpreters, namely the issues of timely and transparent payments, fair compensation, clarity of our standing as officers of the court (denial of updated badges for entrance to courthouses), the lack of a timetable for the issuance of the new revised S & P, and that the proposed one was vague and somewhat open-ended, among other things.
4. On March 4, Sybil Martin responded to our letter critiquing her progress report, and invited us to a meeting at OCIS offices.
5. On March 27<sup>th</sup> Norma Mann and Moussa Abboud, on behalf of MACI, meet with Sybil Martin, Narda Campusano-Horton and John Bello. The meeting was very cordial and all OCIS administrators, vehemently expressed their great appreciation of *per diem* interpreters and their desire and commitment to improving our situation. All the issues that concern us, from compensation, to transparency, to badges, to inclusivity, to the S & P, and more, were discussed. Not much in the way of tangible answers were given, but all were addressed with responses of “working on it” or



assurances that changes, which they could not yet reveal, were coming. All in all, we felt it was a productive and informative meeting in that it opened a channel of communication which we didn't have before, that could lead to a better working relationship.

They expressed their desire to hold these meetings quarterly, and a few days later we received the date for the next meeting, which was June 28<sup>th</sup>.

6. During the month of April the depositions of the five named Plaintiffs by the Assistant District Attorney, took place. Our Attorney, Alan J. Rom, had been preparing them for some time, and with his guidance and instruction, they got through it successfully.
7. On June 28 our second quarterly meeting with OCIS took place. Norma Mann, Moussa Abboud and Cristina Bernal attending on behalf of MACI. All the issues that we discussed in the first quarterly meeting were revisited for updates. We were told that the new revised S & P would be released in the Fall, and that the 221C Committee had reviewed each and every section of the Table of Contents, and that 80 pages of comments were read and considered.

We were also told that the issue of compensation, including travel time and lunch time rates were duely addressed at the Committee meetings, where Narda and Sybil strongly advocated for us. As to the complaint we have about unfair compensation for two-or-more language interpreters, Narda said that, for now, they will continue to pay the extra 25% only if interpretation takes place. She claimed that that was what the current S & P stipulated. Norma showed her the section in the S & P where it says that that is not so. She was surprised, and said it would be further explored, but for now, it stays as is.

We argued the issue of interpreters being "officers of the court", again. As you know, that designation was omitted in the proposed S & P. John Bello said he would look into it. Following the meeting Moussa put together, and we sent to them, a sheet of practices across the country regarding that

issue, demonstrating the importance of interpreters as officers of the court and which supported our argument.

Despite the cordiality and strong expressions of commitment to our cause, the issues of greatest concern for *per diem* interpreters remained uncertain and to be “looked into”. Having said that, all three of us left the meeting with the feeling that these administrators were being honest, to the best of their ability, and sincerely cared about the needs of *per diem* interpreters. Whether for the sake of achieving their goals set by their jobs, or because they really are sympathetic to our situation, is anybody’s guess.

Among other things, they also gave us an update of the new software, Teamwork, to be implemented in the Fall, and which promised to improve and facilitate scheduling, invoicing and timely payments.

8. During the months of June and July we worked on a new logo for MACI, which was finally rolled out in December 2019. The artwork, design and production were contributed by Anahit Flanagan and her daughter, Anna (the artist). An incredible contribution , which MACI could not have otherwise afforded.
9. In July the AG filed the Defendants’ Motion for Partial Summary Judgement, on the issues of whether the plaintiffs may represent a class of *per-diem* court interpreters and whether Plaintiff, Massachusetts Association of Court Interpreters (“MACI”) may be a party plaintiff.
10. On August 7, 2019, our Attorney, Alan Jay Rom, filed our response to the Defendants’ Motion, arguing that the court should rule against it, because it has already considered, and rejected, these two arguments, and therefore, these two issues, already decided, constitute the “law of the case”.

11. In September the court scheduled the hearing for the Defendants Motion for November 14. This date was continued to December and then to February. The date now stands at February 5, 2020.
12. On September 13, our new website was launched (maci-inc.org) We are still working on fine tuning it and making it more functional, user friendly and informative.
13. On September 28, MACI had a backyard picnic for all interpreters at the home of a board member. We hope to repeat this event again in 2020.
14. MACI's Sixth Annual Meeting took place on November 2, 2019.

## **2020**

The new year, 2020, finds us awaiting the next event regarding our lawsuit, the hearing on the Defendants Motion for Partial Supplementary Judgement, to take place on February 5, 2020.

In February, we also expect to learn what, and to what extent, will be the changes to our compensation, what changes were made to the Standards & Procedures, and how all this will impact all *per-diem* interpreter.

*The MACI Board of Directors*