

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO. 2016-00969

MASSACHUSETTS ASSOCIATION OF
COURT INTERPRETERS, INC., MOUSSA:
ABBOUD, SOLEDADE GOMES
DEBARROS, ANAHIT FLANAGAN,
NORMA V. ROSEN-MANN, and
MICHAEL R. LENZ, individually,
and on behalf of other persons similarly
situated,

Plaintiffs

v.

EXECUTIVE OFFICE OF THE TRIAL
COURT,

Defendants

SECOND REQUEST FOR
PRODUCTION OF DOCUMENTS

Notice to Defendant:

Pursuant to Mass.R.Civ.P. 34, your response to this Request for Production of Documents must be received by the plaintiffs' attorney not later than thirty (30) days after your receipt of this Request for Production of Documents;

For the purposes of this Request for Production of Documents, the term "document" or "record" includes relevant past, contemporary, and on-going writings, drawings, graphs, charts, photographs, recordings, data Compilations (translated, if necessary by the respondent through dictation devices into reasonably usable form), contracts, agreements, correspondence, memoranda, reports, notes, requests, bills, orders, notices, writs, declarations, complaints, answers, and other court pleadings, schedules, tabulations, checks, diary entries, telegrams, diagrams, films, newspaper clippings, and all other writings and recordings of whatever nature, whether signed or unsigned, transcribed or not, is asserted, and whether or not any privilege is

asserted.

If no documents exist satisfying any numbered request, please so indicate.

For the purposes of this Request for Production, the following definitions apply:

(a) The term "defendant" includes the defendant, its agents, counsel, employees, officers, trustees, partners, or other persons acting for or on behalf of the Defendant, Executive Office of the Trial Court.

(b) The term "plaintiffs" refers to the individually-named plaintiffs, agents, counsel, employees, officers, trustees, partners, or other persons acting for or on behalf of the plaintiffs, or any of them.

(c) "Identify" means to state the name, title if applicable, and current address if different from address at time of the incident referred to.

(d) The term "MACI" means Plaintiff, Massachusetts Association of Court Interpreters, its members, including the individually-named plaintiffs, and those who are members of the class as defined in the Substituted Amended Complaint and/or who Defendant considers to be *per-diem* independent contractor court interpreters.

(e) The term "Trial Court" means the named defendant in the Substituted Amended Complaint and all those responsible to them, including, but not limited to, the Office of Court Interpreter Services ("OCIS").

(f) Please identify name, address, telephone number and position of the person(s) providing the information in each request;

(g) Plaintiff requests the defendant to produce at the office of the plaintiffs' attorney, Alan Jay Rom, Esq. P.O. Box 585, Chelmsford, Massachusetts 01824, each of the following documents/records:

1. For each of the individually-named plaintiff court interpreter considered by defendants to be a *per-diem* independent contractor in the span of the following years: 2009 (beginning with October 15, 2009), all of the following years: 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, or from the first year such each said named-plaintiff *per-diem* court interpreter was hired at any time after October 15, 2009, and, up to and including the date of production of the documents requested, all documents including, but not limited to the Massachusetts Management Accounting Reporting System ("MMARS"), detailing or showing:
 - a) whether each said named-plaintiff *per-diem* court interpreter is certified or screened, the date each said named-plaintiff *per-diem* court interpreter was hired by OCIS, and the date each said certified interpreter received his/her certification;
 - b) monthly, bi-monthly, or quarterly schedules of availability submitted to OCIS by each named plaintiff *per-diem* court interpreter;
 - c) dates each such named plaintiff *per-diem* court interpreter was assigned to work for any and each court, for any district attorney (e.g. grand jury), for any probation department, or any other specific number of Limited English Proficient ("LEP") person served in each court by each said named plaintiff *per-diem* court interpreter for each day that each named plaintiff *per-diem* court interpreter was assigned to work in each of the above said years;
 - d) total hours each named plaintiff *per-diem* court interpreter worked in each of the above said years;

- e) total hours each named plaintiff *per-diem* court interpreter worked in each month, and each of the above said years;
- f) total actual interpreting hours each named plaintiff *per-diem* court interpreter spent each half day and/or full day when multiple LEP cases, long hearings, and on-going trials were involved;
- g) records showing the hours worked by any and each named plaintiff *per-diem* court interpreter serving OCIS for each year beginning with October 15, 2009;
- h) records showing whether each named plaintiff *per-diem* court interpreter was supported or not supported by a working partner that is often a standard requirement for an on-going trial including a full-day trial;
- i) records of all the instances when court had requested two or three interpreters for a case while OCIS sent only one named plaintiff *per-diem* court interpreter;
- j) records showing the assignment of named plaintiff per diem court interpreters requested by courts for the years starting on October 15, 2009 and up to and including the date of this response, and records showing assignment of said named plaintiffs, *per-diem* court interpreters, during said time to each of said courts;
- k) records of all telephonic interpreting being assigned to Language Line instead of assigning any of the named plaintiff *per-diem* court interpreters to each of the courthouses on each day when Language

Line was being utilized;

- l) all records including but not limited to case name, docket number, language needed, charge(s), and the type of court procedure for which all such Language Line services were utilized when one or more of the named plaintiffs, *per-diem* court interpreters, was/were not working and whose records showed that he/she was available for assignment by OCIS;
- m) E-mails to and from each named plaintiff *per-diem* court interpreter communicating, after receiving a weekly schedule and/or a last-minute assignment, as to whether he/she has a problem with it."
- n) Records of those named Plaintiffs who are certified in Spanish and/or Portuguese and are *per-diem* court interpreters who were routinely assigned either by OCIS or requested through the court for multiple cases ranging from 6 to 20+ and or records of routine "Automatic Morning Coverage" assignments to the same *per-diem* court interpreter without any limitation on the number of cases per morning;
- o) records of all "Automatic Morning Coverage" assignments which resulted in "Full Day Coverage";
- p) records of each day that each named plaintiff *per-diem* court interpreter worked between 1:00 p.m. and 2:00 p.m., and the amount of payment, if any, such *per-diem* court interpreter received, with a full explanation to such amount, or non-payment, for each such *per diem* interpreter working between 1:00 p.m. and 2:00 p.m.;
- q) records reflected on all named plaintiffs, *per-diem* court

interpreters', Daily Service Records (hereinafter referred to as "DSRs") showing travel time spent by each named plaintiff *per-diem* court interpreter between 1:00 p.m. and 2:00 p.m. in an effort to arrive on time for the afternoon session at the next court location;

- r) records of each named plaintiff *per-diem* court interpreter who ended up working for a full-day per court's request but who was not paid for the full-day because OCIS had assigned such *per-diem* interpreter to work for half-day only;
- s) copies of all invoices, digital and hard-copy, submitted by each named plaintiff *per-diem* court interpreter and the date each such invoice was received by OCIS;
- t) records of payments along with payment vouchers from the OCIS computer system of each such invoice submitted by each named plaintiff *per-diem* court interpreter, including, but not limited to, the date each such payment was issued, deductions made for any reason and each such reason, if any, for each such deduction, payment for mileage, payment for travel time, payment time spent in transit from court to court, including, but not limited to, traveling from court to home and to the newly assigned court when each named plaintiff *per-diem* interpreter was called upon, and any and all other records from the data base of the OCIS Fiscal Department; and
- u) Records showing a break-down list of payments based on each payment voucher for each for each and all payment vouchers that the OCIS Fiscal

Department issued to each named plaintiff *per-diem* court interpreter for each year beginning with 2009 (October 15th), such break-down of payments showing the amount of each payment for each half-day /full-day that each named plaintiff *per-diem* court interpreter worked.

2. All documents reflecting the budget allocated for court interpreters, including, but not limited to the budget allocated for *per-diem* court interpreters, for each year beginning with October 15, 2009.
3. To the extent not provided in responses to the above requests, all documents reflecting how much was requested in payment and how much was actually paid to each named plaintiff *per-diem* court interpreter for each year beginning on October 15, 2009 up until the date these requests are provided, and showing each and every deduction made and what said deductions were for.
4. All documents and internal memos reflecting changes to the S & P affecting named plaintiffs, *per-diem* court interpreters, including but not limited to:
 - (a) two-hour minimum compensation when assignment is scheduled for later than 9:00 a.m., at 1:00 p.m., or at 3:00 p.m.;
 - (b) reduction in payment in the amount of \$13/\$20, \$26/\$40, or \$39/\$60 when named plaintiffs, *per-diem* court interpreters, sign in after 9:15 a.m. and before 11:00 a.m., when car accidents on the road cause significant delays, and ALL policy changes in penalty amounts before and after this lawsuit was filed;
 - (c) when only scheduled for the afternoon session (2:00 p.m. to 4:30 p.m.), compensation being a two-hour minimum, and if not a two-hour

minimum, but at an hourly rate, those documents;

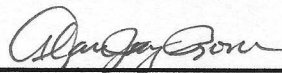
- (d) non-payment for working between 1:00 p.m. and 2:00 p.m.;
- (e) non-payment for working at second court between 1:00 p.m. and 2:00 p.m.;
- (f) hourly rate payment when named plaintiffs, *per-diem* court interpreters, took the assignment on short notice; and
- (g) any non-payment to any named plaintiffs, *per diem* interpreters, when any assignments was on short notice via telephone by OCIS but the cases were continued or were heard without waiting for the arrival of any of the named plaintiffs, *per-diem* court interpreters.

- 5. All documents that reflect acceptance of the terms and conditions of the S & P by named plaintiff *per-diem* court interpreters, including their signatures.
- 6. All documents that reflect any proposed revisions to the S & P from the version any and each of the named plaintiff *per-diem* court interpreters are currently bound by, including any documents that describe reasons for any proposed changes.

Respectfully submitted,

MASSACHUSETTS ASSIDCIATION OF
COURT INTERPRETERS ("MACI"), ET AL.
PLAINTIFFS

By Their Attorney



Alan Jay Rom, BBO# 425960

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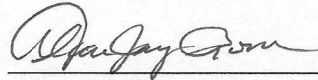
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Dated: October 12, 2018

Certificate of Service

I, Alan Jay Rom, hereby certify that the above-referenced Second Request for Production of Documents was served on Defendants by mailing a copy, first class, postage prepaid to Katherine B. Dirks, Esq., Assistant Attorney General, Trial Department/Government Bureau, Office of the Attorney General, One Ashburton Place, Boston, Massachusetts 02108 this 12th day of October 2018.



Alan Jay Rom