

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
C.A. NO. 1684CV00969

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,

Defendant.

**THE TRIAL COURT’S REPLY IN SUPPORT OF ITS MOTION TO COMPEL  
RESPONSES TO INTERROGATORIES**

The defendant, the Trial Court, submits this reply pursuant to Superior Court Rule 9A(a)(3) in further support of its motion to compel plaintiff Massachusetts of Court Interpreters, Inc. (“MACI”)’s responses to interrogatories. Put simply, as long as MACI seeks monetary relief on behalf of individual members in this breach of contract action, it must identify those members in discovery. Otherwise, it is impossible to litigate MACI’s claims or to award any potential relief for such claims.

First, even if MACI seeks monetary damages on behalf of the putative class, and not of itself, *see* Opp. at 1-2, MACI must nevertheless produce discovery regarding the identity of its members. The purpose and effect of Rule 23 is to allow aggregate representation *by the class representatives* when the requirements of Rule 23 are met. MACI has cited no case in which an organization has been allowed to act as a class representative and to seek monetary relief on

behalf of a putative class under Rule 23 or to proceed as a class representative itself. *See* Opp. at 2 (citing cases in which the organization sought injunctive relief, not monetary relief or class action relief pursuant to Rule 23). Nevertheless, even if MACI could seek to be a class representative pursuant to Rule 23, its membership would be relevant to MACI’s satisfaction of Rule 23 requirements, and the Trial Court’s motion to compel must be allowed.<sup>1</sup>

Second, MACI does not dispute that it fails to meet all three prongs of the test for associational standing. The Appeals Court in *Modified Motorcycle* held that in order to have associational standing, neither the claim asserted nor the relief requested by the organization can require the participation of individual members in the lawsuit. *Modified Motorcycle Ass’n of Mass., Inc. v. Commonwealth*, 60 Mass. App. Ct. 83, 85 (2003) (citing *Hunt v. Washington State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)). Here, if, as MACI maintains, it seeks monetary damages on behalf of putative class members for a purported breach of contract, *see* Opp. at 2, then MACI’s members must themselves participate in the litigation in order to prove breach and damages—and MACI lacks standing to bring the claims on their behalf.

For the foregoing reasons, the Trial Court requests that the Court allow the motion and order plaintiff MACI to identify every individual who is or has been a member of MACI at some time between November 1, 2014 and the present, or in the alternative, allow the Trial Court to renew its partial motion for summary judgment to dismiss MACI from the action for lack of standing.

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<sup>1</sup> The Trial Court moved for partial summary judgment to dismiss MACI from this action for lack of associational standing. The Court “took no action” on the motion “at th[at] time . . . without further discovery,” *see* Feb. 10, 2020 Order at 1-2, and the Trial Court maintains that MACI lacks standing and is an improper party to this claim for monetary damages for a purported breach of contract. To the extent MACI intends to seek relief on behalf of a putative class, MACI’s claims are derivative of and duplicative of the Rule 23 claims asserted by the putative class representatives and must be dismissed on those and other grounds.

Respectfully submitted,

Defendant THE TRIAL COURT

By its Attorneys,

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Date: February 26, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, February 26, 2021, served the foregoing document upon all parties, by emailing a copy to:

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/s/ Katherine B. Dirks  
Katherine B. Dirks