M2012-01045-SC-RL2-R

From: "Lori Gonzalez" <lgonzalez@bartdurham.net>
To: <janice.rawls@tncourts.gov>
Date: 5/25/2012 8:37 AM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Friday, May 25, 2012 - 8:36am
Submitted by anonymous user: [65.13.250.190]
Submitted values are:

Your Name: Lori Gonzalez
Your email address: lgonzalez@bartdurham.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: An advisory comment or some other language should be added to emphasize that this amendment specifically allows for interpreter costs to be paid by the AOC in civil court hearings as defined. I personally have spoken with some of the private bar who read the proposed rule as written and did not see the change as made and suggested that the rule was the same as before. Because of the major change in both rules, and more importantly, change in actual procedures that this rule hopes to bring about, additional comments or language emphasizing the civil hearing application would be helpful.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2694

M2012-01045-SC-RL2-RL

From: "Heather Hayes" <info@uscourtinterpreter.com>
To: <janice.rawls@tncourts.gov>
Date: 5/27/2012 2:28 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, May 27, 2012 - 2:28pm
Submitted by anonymous user: [67.212.250.144]
Submitted values are:

Your Name: Heather Hayes
Your email address: info@uscourtinterpreter.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: No. M2012-01045-RL2-RL
Your public comments:
Please find below my comments on the Supreme Court Rules re interpreters

Section 7

(a) Why should interpreters of languages other than Spanish be eligible to receive greater compensation? This is absolutely shocking. We are all carrying out exactly the same duties, at the same level of expertise and effort. This could easily be seen to be discriminatory, at many levels, and even a violation of federal law (rate of pay according to linguistic, ethnic or cultural origin, for example). If the State of Tennessee requires from me that I take the same oath as that administered to interpreters of languages other than Spanish, and if I am to carry out the same duties as those non-Spanish-language interpreters, then OBVIOUSLY we must legally be compensated at the same rate.

Also, this practice means that interpreters whose ability has not been proven (if no certification exam exists for a less common language) stand to be paid MORE than interpreters who have MET STATE CERTIFICATION REQUIREMENTS for judiciary interpreters. This is ridiculous and unfair.

(e) No travel time to be paid? This is tantamount to unpaid labor, unless it is the State of Tennessee's assertion that interpreters travel by de-molecularization, miraculously and instantaneously beaming themselves to assignment locations.

The only reason for an interpreter to travel to an assignment, and to assume all of the associated risks, is to carry out the interpretation assignment itself, and to make possible the court's communication with a party (that is, the court's fulfillment of a party's constitutional right to be present). Therefore, travel is PART OF the assignment itself. If the State wishes not to pay for interpreter travel, then the courts must carry put all hearings needing interpeters via electronic means. However, since this is neither plausible nor practical, travel for interpreters becomes a requirement: it is not the whim of that interpreter to do some sightseeing on route to a court. It is completely unreasonable of the State not to compensate these professionals for their time.

Does the State not provide payment for travel time with regard to attorneys, judges, experts, and others who are not on salary?

Also, currently, TNAOC invoicing requirements for interpreters are so complex and time-consuming that adding yet another requirement (additional motions

for compensation for travel time) unduly and unnecessarily burdens interpreters and others involved in thes process.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2697

M2012-01045-SC-RL2-RL

From: "Wei Ralph" <ralphfamily@comcast.net>
To: <janice.rawls@tncourts.gov>
Date: 5/27/2012 12:06 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, May 27, 2012 - 12:05pm
Submitted by anonymous user: [69.137.66.172]
Submitted values are:

Your Name: Wei Ralph
Your email address: ralphfamily@comcast.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: No. M2012-01045-RL2-RL - Filed: May 18,2012
Your public comments:
To Whom It May Concern,

As a spoken foreign language interpreter for languages other than Spanish, I want to point out to you that your newly proposed limitation on cost of interpreter services will create a harsh environment for individual with LEP. This is especially true if a person's life and death is at stake. Quality of service is directly co-related to cost of services that State of Tennessee is willing to pay. Careless cost cutting in hourly rates is taking away necessary incentives for qualified individuals to stay in the TN system.

Travel time is a necessary component to provide services. For rare languages, due to lack of statewide qualified interpreter, one may required to go from one part of the state to another. Travel time can be a large part of the overall process of providing service. It must be compensated to be fair to the provider. Certified Court Interpreters is a product of unique cultural background, advanced education, professionalism, hard work, investment of time, money and efforts as well as continuing education and training. Certified rare language court interpreter in the state of Tennessee typically holds full time jobs in other professions due to lack of full time needs for services. However, when needs does arrive, one must be ready to assist. Daily skill maintenance, routine and updated professional networking and training and dedication to stand ready are trademarks of qualified interpreter.

Does State of Tennessee AOC wish to recruit and maintain teams of qualified and dedicated court interpreters who are prepared and ready to take on the next assignment assisting the court system for a just and fair decision in cases involving individual with LEP?

If the answer is yes, State of Tennessee AOC must remove the newly proposed limitation on cost of interpreter services and travel time compensation to allow qualified and dedicated court interpreters stay in the system.

If the answer is no, State of Tennessee AOC is willing to compromise the court system in cases involving individual with LEP, then, be prepared for quality and standards of court interpreters to drop and free fall.

It is my hope that State of Tennessee AOC will maintain current cost of service rules and not rushes into decision which can compromise its court system.
Regards,
Wei Ralph, MBA-Accounting,

Certified Mandarin Chinese Court Interpreter-TN, AL,
Thru Reciprocity : NC, OH, KY, IN, MO, MS. WV. VA
TAPIT (Moderator), NAMI-Sumner county Board Member,
615-498-6539 Cell, 615-859-8910 Fax

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2696

From: "rau venegas salinas" <rsalinas-777@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/4/2012 1:39 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, June 4, 2012 - 1:38pm
Submitted by anonymous user: [74.226.98.59]
Submitted values are:

Your Name: rau venegas salinas
Your email address: rsalinas-777@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I don't agree with these new regulations they want to implement for interpreters, because in the first new regulation I believe that a person can't work at their very best when they have to be thinking of their travel costs. Second, it's very difficult for a person to do their work thinking that their rate of pay, and their wage, depends on what a judge decides, in my opinion it should not be variable.

Interpreters are indispensable for any society, and more so for one that believes that liberty and justice are for all.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2734

From: "Giovanna López" <gioklp@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/4/2012 11:59 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, June 4, 2012 - 11:58am
Submitted by anonymous user: [66.208.198.70]
Submitted values are:

Your Name: Giovanna López
Your email address: gioklp@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: 42
Your public comments:
Memphis, long time ago become a diverse city, not only people from many other states come to Memphis but people from many other countries.
One way to continue living in harmony despite our diferences, for a better future of our city, it is to offer equal acces and rights for everybody. As a city taxe payer, I request the Supreme Court do not change the Judicial Regulation, shall prejudice seriously against adequate language access to courts for defendants, victims, witnesses, etc.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2731

From: "Ronald G. Tipps" <ronaldg@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 6/4/2012 6:49 PM
Subject: **TN Courts: Submit Comment on Proposed** Rules

Submitted on Monday, June 4, 2012 - 6:48pm
Submitted by anonymous user: [98.240.122.79]
Submitted values are:

Your Name: Ronald G. Tipps
Your email address: ronaldg@bellsouth.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
To the Honorable Court,
I am a translator and a member of the Tennessee Association of Professional Interpreters and Translators (TAPIT). I feel that proposed changes in Rule 42 are unfair. Especially the mileage descrease and the hours allowed decrease. We use gasoline and incur lots of wear and tear on our cars so it is only fair that we be compensated for the long travel time that sometimes necessary when going to distant courts to interpret. Not only that, but frequently we wait many hours before our case comes before the court; this too should be adequately compensated because our time is just as valuable to us as it is to the courts. Please do NOT decrease our benefits and allwances. As the saying goes: "Don't fix it if it ain't broke."
Additionally, I believe that we should receive MORE compensation than we currently do because of cost of living increases. Thanks for your consideration,
~ Ronald G. Tipps

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2735

From: "Tonya Miller" <millertonya@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/5/2012 1:34 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, June 5, 2012 - 1:33pm
Submitted by anonymous user: [69.138.36.32]
Submitted values are:

Your Name: Tonya Miller
Your email address: millertonya@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Do we have a law that protects our ability to participate in court proceedings? For some reason, I am convinced that being able to understand and participate in court is necessary. Being innocent until proven guilty means that one must be able to provide information; hence, the need to communicate. Since the majority of our court documentation is oral and written, interpreters and translators fill in a necessary piece of the communication puzzle that allows us to participate in the administration of our laws. How will we categorize those who are not able to understand the language in which the court dictates? Insane? Guilty by language default? Now, what happens if court interpreters are completely free enterprise? Our judicial system then becomes open to inconsistencies in administration, credentialing and cost. If the court assumes that costs will lower automatically by virtue of supply and demand, let me remind you that interpreters make substantially more income outside of court. Even today, there is little incentive for a seasoned interpreter to work in court.
Court interpreting is tedious and stressful. It is my impression that should the court decide to cut ties with the administration of interpreters, everyone becomes subject to greater expense and inconsistency.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2741

From: "Steve Derthick" <stevederthick@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/6/2012 2:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 6, 2012 - 2:48pm
Submitted by anonymous user: [68.59.228.225]
Submitted values are:

Your Name: Steve Derthick
Your email address: stevederthick@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: I am shocked at the severity of the proposed changes to Rule 42. If approved in their current form, these changes will be extremely counter productive. They will reverse the past decade's progress in professionalizing interpreting services in Tennessee courts. They will gut the profession. Interpreters who are already credentialed and serving local courts will have to re-evaluate whether it is economically feasible for us to continue. Prospective interpreters will no longer see the potential to earn a living. They will lose their incentive to complete the arduous and expensive process of becoming credentialed. If approved, these changes will bring us back to the days when the court turned to friends, family members, and other inmates to interpret. With these drastically reduced pay rates, no credentialed interpreters will be available.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2749

From: "Tom Nguyen" <mr.thangnguyen@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/7/2012 1:03 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 7, 2012 - 1:03pm
Submitted by anonymous user: [68.53.138.201]
Submitted values are:

Your Name: Tom Nguyen
Your email address: mr.thangnguyen@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Interpreting is a demanding task, especially in a court setting. It requires one to be mentally alert and prepared, especially for non-Latin based languages where conversion is rarely easy. Investment in Education and on-going training is a must to be an effective interpreter. This takes time and resources to maintain. Meanwhile, many interpreters of non-Spanish languages are temporary contractors facing unstable work income. At the current rate, it is tough enough to keep interpreting a feasible option over other more stable jobs. There is a lack of adequate incentive for one to be an interpreter (a good one) even on a part time basis. This is most true for non-Spanish languages as volume is not consistent. It is not considered a career path. To put simply, to be a qualified interpreter is not easy in terms of training and work schedule management to attract talent from other career options.

An important aspect to know is that interpreting is increasing as society becomes more diverse. There is more demand for good interpreters in any settings for legal and cultural reasons. To be competitive, the courts must create flexible ways to keep interpreters. Otherwise, it will be hard to meet the needs for languages other than Spanish.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2754

From: "Amanda" <ajm2179@aol.com>
To: <janice.rawls@tncourts.gov>
Date: 6/7/2012 8:24 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 7, 2012 - 8:23pm
Submitted by anonymous user: [97.191.140.233]
Submitted values are:

Your Name: Amanda
Your email address: ajm2179@aol.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: Interpreters have a hard enough time finding work and getting adequate pay for it. All of us professional interpreters have spent thousands in training and education. The AOC indigent claims fund is the only one that pays on time and sets the standard for payment amounts. Many agencies take months to pay on claims. It is hard to make a living and pay house payments when you dont get paid regularly. The change that involves interpreting for LEP clients during attorney discussions, trial prep, etc. and not getting paid by the AOC is uncalled for. There hasn't been one trial, hearing, or plea agreement made in the 10 years I have been court interpreting where the LEP didn't discuss everything with their Public Defender before the proceeding. It is essential for the interpreter to be present to interpret the attorneys advice and recommendations. We also have had the same pay rate for the last 10 years when the program started. Are we ever getting a raise? Education costs go up and cost of living rises, why not get a raise every once in awhile?

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2757

From: "Bare Yogol" <byogol@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/8/2012 2:10 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 8, 2012 - 2:10am
Submitted by anonymous user: [99.120.117.8]
Submitted values are:

Your Name: Bare Yogol
Your email address: byogol@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
To: Michael W. Catalano, Clerk
100 Supreme Court Building
40 1 Seventh Avenue North
Nashville, TN 372 19-1407

I am Bare Yogol an Interpreter/Translator in Tennessee for Somali to English and English to Somali Language and I wish to applaud the Supreme Court and the Tennessee AOC for their excellent work in ensuring linguistic access to justice though the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services. Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I cannot agree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts.
Sincerely,
Bare Yogol

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2758

From: "Sandra Gibbs" <sgibbs1118@att.net>
To: <janice.rawls@tncourts.gov>
Date: 6/8/2012 3:39 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Friday, June 8, 2012 - 3:38pm
Submitted by anonymous user: [99.3.93.236]
Submitted values are:

Your Name: Sandra Gibbs
Your email address: sgibbs1118@att.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: I think the proposed changes for Court Interpreters is a mistake. By cutting the travel time allowance, 2 hr. minimum compensation, and by making the "party" responsible for seeking his/her own interpreter, the quality of interpretation in court proceedings will be diminished greatly. This will cause many appeals as "parties" will ask relatives and friends to do the interpreting for them; most of these individuals do not have experience in the field and the accuracy of the interpretation will be hindered. Credentialed interpreters are not going to be willing to take assignments where they have to commute at least 40 minutes each way if there's no guarantee of pay due to the elimination of the two hour minimum and the elimination of travel time. Credentialed Interpreters are not going to risk spending all of their time and money to provide services for then to have the court say: "sorry, we don't have enough funds at our disposal with which to pay you!" Do we do that to Judges, Court Clerks, Court Reporters? Do we just take anyone from the street to hear a case, keep a docket and keep the record just because funds are limited? Can the AOC guarantee justice for all and fair trials if it undertakes the proposed changes? I think not. Does the AOC really want to go down this road after having made such much stride in the last couple of decades? I think the AOC is sending the wrong message by even contemplating such ridiculous position. Furthermore, we need uniformity; uniformity cannot be accomplished by having each court determine what it is willing (under the guise of able) to pay its interpreters.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2762

From: "L. Michael Zogby" <mztranslating@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/8/2012 9:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 8, 2012 - 9:15pm
Submitted by anonymous user: [68.52.222.131]
Submitted values are:

Your Name: L. Michael Zogby
Your email address: mztranslating@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I serve as a court certified interpreter in Middle Tennessee, and I would like to express my appreciation to both the Supreme Court (SC) and the AOC for their continued interest in the interpreting field. I am pleased with some of the proposed changes herein, however there are also proposed amendments that, if adopted, will adversely affect interpreters' service to courts statewide.

It is commendable that the SC has now addressed satisfying the needs of Limited English Proficient ("LEP") Persons in Civil cases (not just Criminal cases and selected others) before the lower courts. The fact that a party has limited English abilities and resources should not restrict his/her right to fully participate in a civil matter in which he/she is a party in court. This new amendment laudably "levels the playing field" for the LEP, as it should be in our fair system of justice.

One the other hand, I would outline below amendment proposals of Rule 42 that, in the view of the vast majority of Tennessee's credentialed interpreters, will be detrimental to the services interpreters provide to the courts:

* Section 4 (a) states that "Appearances by interpreters appointed pursuant to this rule shall be arranged by the attorney, party, court clerk, or judicial assistant..." The term "party" should be removed because the "party" in a judicial action, as defined earlier in the Rule, can refer to a defendant, victim, or witness. Certainly, the Court would not want a defendant or witness bringing their own interpreter to serve as an official court interpreter in a proceeding. The SC should require judges to follow minimum standards when appointing a qualified and/or credentialed interpreter and not leave it up to "local rules".

*Section 7, Cost of Interpreter Services states, "Reasonable compensation shall be determined by the court in which services are rendered, subject to the limitations in this rule, which limitations are declared to be reasonable." Then, 7(a) goes on to limit compensation by capping hourly and daily amounts to 'Certified Interpreter - $50 per hour or $500 per day; Registered Interpreter - $40 per hour or $400 p/day...' for Spanish and $75.00 p/hr. for other languages (leaving it unclear as to if there is a daily cap for these other languages). To request an amount in excess of these daily rates, a motion would have to be filed in court, then later subject to approval by the AOC, even after the local judge approves it. Additionally, the 2 hour minimum fee guaranteed in Rule 13 has been left out.

This is one of the most controversial and disruptive amendment in Rule 42. It is not just a matter of money. It is a matter of fairness. Most of the time, the daily cap does not present a problem. Nonetheless, not a few of us have been interpreters in long hearings or jury trials that extend well beyond a "normal" day (e.g., when a judge presiding over a jury trial decides that she wants the jury to remain well into the evening if they are close to a verdict rather than having to return the next day). Several of us have ended up working for hours without any compensation.

Furthermore, if the AOC is no longer guaranteeing a minimum fee of 2 hours to the interpreter, why would an interpreter travel to a given court, only to remain there for 10 minutes due to a continuance, then being offered payment of about $10 - $15? No credentialed interpreter in his right mind would work under those conditions.

The daily maximum should be eliminated and the 2 hour minimum should be reinstituted so as to make it financially feasible to credentialed interpreters.

* Section 7 (e) proposes that "compensation for time spent traveling to and from assignments will not be reimbursed or paid..." and that "payment for [travel] expenses... or compensation for travel time may be sought by a motion filed in the court in which the services are sought...if the motion is granted, the court's order shall recite the specific facts supporting the finding, and the court's order shall promptly be forwarded to the director of the AOC. If the order authorizes payment for travel time, the maximum amount paid for time spent traveling shall not exceed fifty percent (50%) of the applicable hourly rate".

It is imperative that this amendment be excluded. Firstly, it adds to the burden of having to prepare and procure another motion before the Court; and according to this amendment, the motion has to be approved prior to traveling to the assignment. My question is, why complicate our lives with more paperwork if the simpler procedure provided in Rule 13 (requiring the verbiage approving travel to be included in the regular appointment form) was satisfactory? Moreover, TN has currently about 50 certified interpreters throughout the whole state. I can assure you that if the AOC refuses to pay travel or cuts it in half, most of us will not travel beyond our county to serve any other court. Imagine this scenario under the current proposals: A French interpreter is asked to interpret in a trial held 2 hours roundtrip away from her home. She arrives only to find out that the trial has been continued. So she spends about 10 minutes in court. According to these amendments, she will potential be paid about $10 for the whole assignment. Even if she receives 50% reimbursements for travel out there, is it worth her time (possibly setting aside the whole day) and gas to drive all the way out there? Of course not.

This proposal should be removed and the current wording found in RULE 13 4(d): "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters," should be left in place.

* Section 7 (g)(1), referring to the claim forms, should continue allowing that said forms be signed by either the Court or Counsel, as provided in current Rule 13. As a practical matter, when interpreting services are provided at the jail or attorney's office, it is a burden on our time and resources to have to contact the Court afterwards to try to get the claim

form signed by a judge. Furthermore, the judge would have no idea of the time spent or otherwise on the interview. The counsel is in the best position to verify the accuracy of the forms under these out-of-court circumstances. Of course, once all judges in the state are online with the ICE system, this would no longer be an issue.

* Section 7 (h) Contract Services and Pilot Projects. The word "Credentialed" should be added to ensure quality interpreting in this venue.

* Section 7 (j)(2) should omit the words "and giving due consideration to state revenues". Surely, the AOC is not suggesting that interpreters should not be paid if state funds are low? Would we go to a restaurant to order a large meal with desert, eat it all, then decide not to pay for it or just offer to pay half the bill? It seems as if this amendment is proposing exactly that.

In conclusion, as an interpreter I would like to propose the following amendments, after many discussions on the matter with a number of my colleagues:

1. A late-cancellation policy. An interpreter may set aside a whole day of work, only to have her assignment cancelled at the last minute with no right to any compensation.
2. Recommend that a voluntary advisory committee, composed of credentialed interpreters working in the field and other stakeholders, be established by the AOC to assist in formulating future policies and amendments.
3. A periodic review of interpreting fees upon consideration of cost-of-living factors and other market factors.

Thank you for your consideration of the above.

Submitted by -
L. Michael Zogby
Federally & State Certified Court Interpreter

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2766

From: "Amanda Leslie" <brutuleslies@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/8/2012 5:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 8, 2012 - 5:49pm
Submitted by anonymous user: [68.52.222.131]
Submitted values are:

Your Name: Amanda Leslie
Your email address: brutuleslies@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: No. M2012-01045-RL2-RL - Filed: May 18,2012
Your public comments:
It would probably behoove us to put ourselves in the place of the foreigner. If were in another Country and did not speak the language, and find ourselves in a court situation for whatever reason, what kind of Interpreter would we want?

I'm afraid a lot of these new rules would leave only very poorly qualified individuals as interpreters. It does not seem to follow the idea of a persons rights to a fair trial, if there is so much restrictions on the interpreter only being used in courtroom setting, not being able to communicate with your Attorney, outside of that setting. What if the closest qualified interpreter lives quite a distance away, do they just get a Joe Blow that says he speaks the language? That seems like a big law suit ready to happen.

What is the Federal Government Standards on these issues? Is TN by proposing these rule changes, going against federal guidelines? I would think the "American Government" the bastion of freedom and human rights would have some high standards in this regard? Are we living up to them?

There are some things that are too important to do away with, and that's a persons rights in the judicial system, just as we have a right to legal representation, I sure would want to be confident that the interpreter that was assigned to me has had the training and the certifications to let me know they are competent at what they are doing? I speak a few 3 languages, and I can tell you I can communicate in them, but I certainly would not be able to accurately convey exact meanings in any of them. I sincerely hope you consider the ramifications of these proposed changes, before you take such action.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2763

From: "Randy P. Lucas" <lucaslawfirm@aol.com>
To: <janice.rawls@tncourts.gov>
Date: 6/8/2012 1:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 8, 2012 - 1:51pm
Submitted by anonymous user: [108.193.246.60]
Submitted values are:

Your Name: Randy P. Lucas
Your email address: lucaslawfirm@aol.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
As an attorney practicing in trial courts, often with appointed cases, and dealing daily with interpreters, I am very concerned about these proposed changes. They will, in effect, by decreasing the interpreters' ability to make a living, inevitably limit their availability. These proposed changes have serious constitutional implications to the non-English speaking crimi9nal defendants whom I represent. We, as attorneys, are now required in addition to dealing with the particular charges involved, advise our clients of the effect on their residency status their charges might impose. Without access to qualified interpreters we will be unable to defend our clients and to fulfill our constitutional and professional obligations.

I recognize and applaud the AOC's desire to reduce its budget and to be a good steward of taxpayer funds, I think this proposed rule will only lead to far more expensive problems in the future. No one working particularly in indigent defense is within the justice system does so for the financial remuneration it affords, but cutting compensation to the point where it is difficult to have anyone qualified to provide services will only lead to injustice and greater expense in the future.

I urge the rejection of these proposed rule changes.

Randy P. Lucas/19907
LUCAS LAW FIRM
111 College Street
Gallatin, Tennessee 37066
615-451-1013

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2759

From: "Rob Cruz" <RCruz@najit.org>
To: <janice.rawls@tncourts.gov>
Date: 6/9/2012 7:49 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, June 9, 2012 - 7:48pm
Submitted by anonymous user: [166.147.116.10]
Submitted values are:

Your Name: Rob Cruz
Your email address: RCruz@najit.org
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
To whom it may concern:

I would like to commend the Administrative Office of the Courts, Governor Haslam and the State Legislature for obtaining additional funding for qualified, competent and unbiased judiciary interpreter services. I have routinely applauded my state Supreme Court's commitment and resolve that "access for all" is indeed for "all". I am proud of the recognition that the judiciary interpreter serves the LEP individual, the court and society as a whole. Prosecutor's, defense attorneys and law enforcement officials depend on competent, unbiased interpretation to fulfill their responsibilities to the courts. The possibility of undetected biases or erroneous interpretation can undermine a just resolution. To ensure quality interpretation the expense of interpreter services should be budgeted along with other essential services. This development in our state is a large step towards the fair dispensation of justice. However, it is distressing and counterintuitive that at this crucial time there are also some proposed amendments to Supreme Court rule 42 governing the compensation of interpreters.

Judiciary interpreting is complex. The notion that a bilingual individual is innately capable of adequately performing the functions of a professional judiciary interpreter is a common misconception. To provide legally equivalent renditions, judiciary interpreters must possess unique cognitive skills and have a complete command of language and vocabulary for both English and the foreign language. These take years to develop and must be refined as language continuously evolves. The Administrative Office of the Courts recognized this and has been very proactive in developing and implementing a credentialing program. The prerequisite skills involved with performing the job make attaining certification rightfully difficult. This has led to a shortage of competent interpreters, not only in Tennessee, but nationwide. This can best be addressed by a continued effort to recognize the profession as essential and thus financially viable. The portions of these proposed rule changes that address the expansion of covered encounters along with the provisions for pilot programs, which I urge should include the input of practitioners, should have that effect.

The crux of the matter is that the proposed changes related to minimum pay, reduction and/or elimination of travel pay along with daily maximums for all interpreters and hourly maximums for interpreters of languages of lesser diffusion will render most of these efforts moot. The reality is that the number and distribution of certified interpreters in Tennessee indicate that travel will be an important component of the job, at least for some time.

Undoubtedly, as more interpreters are drawn by the prospects of a true profession and augment the ranks, as pilot programs and better data collection better flesh out efficiencies and synergies, some economy will be realized. Targeting the existing pay of committed professionals performing a difficult and required service as the place for immediate cost savings is shortsighted in that it will make the profession untenable. Most of my colleagues and I will have to seek other means of sustainable employment. I respectfully request that you allow us to continue to do the work that we love and that some feel is a calling. I am confident that if interpreters are part of the pilot programs and the improved data collection process and if we begin to make the profession attractive, there will be improved efficiencies in the days ahead.

The proposed changes to interpreter pay will undermine years of work by the Administrative Office of the Courts and interpreters alike. It will result in a situation not very different from where we were 12 years ago, albeit with a much clearer understanding by all parties of the obligations incumbent upon receivers of federal funds. The proposed changes could have the unintended effect of pricing competent interpreters out of the profession in Tennessee. I am hopefully optimistic that the court will take this possible ramification into account.

Respectfully,

Rob Cruz
Chairman
National Association of
Judiciary Interpreters and
Translators

TN Certified Court Interpreter

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2768

From: "Kurtis Snyder" <kurtsnyder@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/9/2012 6:54 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, June 9, 2012 - 6:53pm
Submitted by anonymous user: [129.59.115.10]
Submitted values are:

Your Name: Kurtis Snyder
Your email address: kurtsnyder@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
My name is Kurtis Snyder and I am a Registered Spanish Court Interpreter, credentialed through the Tennessee AOC. I would like to start by commending the Supreme Court and the Tennessee AOC for their excellent work in ensuring equal access to justice for all non-English speakers through the expansion of the proceedings and litigants covered under the proposed new rules.
At the same time, some parts of the proposed amendments to Rule 42 contain provisions which I fear may limit non-English speakers' access to Justice.
I am also concerned that if some of the proposed changes take effect, it will greatly reduce the number of individuals seeking certification as court interpreters and will affect many courts abilities to find a credentialed interpreter.
I am opposed to the following provisions:
1. That no payment is allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees; and that the AOC can deny such payment even when the motion is approved by the court. If this change is adopted, I fear many courts would find it almost impossible to find a competent, credentialed interpreter since most interpreters would be unwilling to travel the long distances required to cover cases in remote courts. For example, if I am asked to interpret for a case that is 1.5 hours away, I would basically have to block the whole day, drive 3 hours roundtrip, and only be compensated for the brief time that I interpret. If that were the case, I would not be able to accept the assignment, and it would be impossible for me to make a living working for the courts. To retain competent, professional interpreters, it is essential that they be compensated for the time they spend traveling to courts. Since my only job is interpreting, even accepting travel time at only 50% of my normal rate would be devastating to me and I would have to find work elsewhere. It is only fair that we be compensated for our travel time. I am also concerned about the portion of this proposed rule that says I must submit a motion requesting the travel time. This will add an unnecessary burden not only to the interpreter, but also to the court. It must also be filed before said expenses are incurred. What about last minute cases where travel is involved and there is not enough time to submit the motion? This is unduly burdensome. Furthermore, I foresee that in remote counties and areas where no credentialed interpreter reside, local courts will find it impossible to find an interpreter willing to travel the long distances needed to be present for a particular case. Therefore, I am requesting that the entire portion of Rule 42 § 7(a) referring to the elimination of payment for travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."

2. That the 2-hour minimum payment for interpreters (previously appearing in Rule 13) has been omitted from the amended version of Rule 42. Without this provision, Tennessee court interpreters will have to look for interpreting jobs in other places where compensations is higher. Many times, interpreters only have 1 or 2 cases in a day and we finish our work in less than 2 hours. Therefore, without being compensated travel time and the 2 hour minimum, we would make far less money than even the courthouse janitor. Most states have a 2-hour minimum and some even have a 4-hour minimum. As I stated before, it would be very difficult to make a living in court interpreting without having the 2-hour minimum as a back-up. Therefore, I feel that the previous provision for a 2-hour minimum should be added to Rule 42, just as it appears in Rule 13 § 4 (d)(6).

3. That individual courts be allowed to set rates for interpreter services as long as they do not exceed limitations set out in Rule 42. I am concerned that some courts may try to set unreasonably low hourly rates, which in turn, would mean that credentialed interpreters would not accept work in that particular court and a non-credentialed (possible incompetent) "interpreter" would be used. That would create a barrier to a non-English speaker's access to equal justice. I feel that the AOC should set the hourly rate and therefore, I am requesting that that portion of the amendment be removed.

4. The lack of a cancelation policy. There has been a need for some time now for a provision to cover interpreters in the event of a last minute cancelation of a case. I hesitate to accept an assignment that is scheduled for more than one day knowing that I will more than likely have to turn down other work in the private sector and/or in other courts and that the case may be canceled at the last moment. Not only do I not get to interpret on the case that was canceled, but I may have turned down other jobs and therefore I have no work for 1 or more days. This is why I ask the court to consider implementing some form of a cancelation policy.

5. The phrases "...and giving due consideration to state revenues" and "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof." 7(g)(1) and 7(j)(2) If a service is rendered, it is only fair that the service be compensated as agreed upon. No interpreter, or anyone for that matter, should go to work and wonder if they will be paid for the work that they did. I feel that this phrase should be removed from both subsections.

If the proposed changes go into effect as they are currently drafted, I will no longer pursue my goal of becoming a certified interpreter. I know that the number of individuals interested in becoming a court interpreter in TN will fall dramatically. We are a group of individuals with a very specialized skill set and many of us have spent years of our lives striving to become court interpreters. I respectfully request that you consider these concerns and remove these unfair proposed amendments.

Thank you,

Kurtis Snyder

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2767

From: "Joan Wagner" <joanfsw@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/10/2012 5:42 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Sunday, June 10, 2012 - 5:42pm
Submitted by anonymous user: [24.158.89.186]
Submitted values are:

Your Name: Joan Wagner
Your email address: joanfsw@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Docket Number: M2012-01045-RL2-RL

Dear Sir,

I am a Spanish-English certified interpreter serving in 8 counties in East Tennessee. I would like to comment on the proposed changes to rule 42.

As Tennessee moves to comply with the requirements set out in the August 16, 2010 letter from the Department of Justice, it is possible that more interpreters will be needed in Tennessee. There are some parts of the proposals, however, that appear to be designed to drive interpreters away instead of attract them.

The proposal to allow parties to arrange for an interpreter, if enacted, would add a layer of complication to the necessary neutrality of the relationship. I envision fewer potential conflicts if the attorney or the court arranges for an interpreter.

A payment system where interpreters risk not being paid subject to state revenues is obviously problematical. Does this clause apply only to interpreters, or does it apply to other people who work with 7(k)(1) individuals as well? Removal of certainty of payment could lead to fewer interpreter services provided to LEP individuals, thus causing a barrier to compliance with the requirements of the Department of Justice.

Was it an oversight to leave out the provision for a minimum payment of two hours per day for in-court interpreting? Some court hearings are short, yet it is the skill of the interpreters which allows them to be taken care of without delay, and this skill should be justly compensated. Interpreters are available as on-call professionals and have no way of scheduling more work after a short hearing. The two hour minimum is a sine qua non for attracting and maintaining enough interpreters to serve in Tennessee. If interpreters cannot earn sufficient income through court work, they will have to look for other jobs and will no longer be available for court work.

Since Tennessee interpreters work on an hourly basis, I cannot see the logic in putting a cap on their daily pay. Other hourly workers earn more when they work overtime. This proposal indicates that interpreters are considered both professionals and/or hourly workers at the convenience of the people who attempt to guide them in service. I am also against a cap on LOTS: if you are highly competent in a unique skill, the market should bear the cost. Limiting fees for LOTS implies that speakers of lesser used languages are not

so protected by the law.

If the AOC contracts with interpreters for half or full day rates, the interpreters so hired should be credentialed, and the word "credentialed" should be in the added to the rule.

To expect that judges only should sign vouchers for out-of-court interpretations creates an extra burden on interpreters. The stipulation that lawyers, too, can sign should be reinstated.

In the commentary following Section 5 of Rule 42, it says: "Court interpretation is a specialized and highly demanding form of interpreting. It requires skills that few bilingual individuals possess, ... The knowledge and skills of a court interpreter differ substantially from or exceed those required in other interpretation settings, ..." Payment for this niche profession is based on that very knowledge and those skills as acknowledged in Rule 42, and until Tennessee acquires enough interpreters to work in local settings on a full-time basis, it should pay travel time for those who travel to their work. Interpreters cannot complete other work when they are traveling; travel is part of the work. The cumbersome proposal for petitioning travel fees, if enacted, will make it difficult for counties with no local interpreters to deal with LEP defendants in a timely fashion and may cause illegal delays, as well as adding non-billable time to an interpreter's workload. Recently the state of North Carolina sent emails to interpreters in eastern Tennessee requesting them to serve out-of the way counties in western NC, because their own interpreters would not drive to those places. I looked into their compensation and found that it was not worth my time to go there. In order to assure adequate interpreter coverage for all counties in our state, the original language of Rule 13: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters", should be reinstated.

A recent Senate Hearing on foreign language workers in the federal workforce - see http://www.c-spanvideo.org/program/306148-1 - recommended implementation, continuation and expansion of programs to assure an adequate supply of foreign language speakers. This would be good advice for Tennessee in order to keep the "pipeline" open for future interpreters instead of reducing incentives for interpreters to continue practicing in the court system of Tennessee. Please remember that we have not had a raise in 10 years and we have absolutely no benefits.

I am in favor of the additional interpreter coverage for LEP individuals in our court system. While I am opposed to some of the changes proposed in Rule 42, I am very grateful for the opportunity to explain why I disagree.

Respectfully submitted,

Joan Wagner

The results of this submission may be viewed at:
http://www.tsc.state.tn.us/node/602760/submission/2771

From: "Lynwood Wagner" <onjwagner@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/10/2012 6:14 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Sunday, June 10, 2012 - 6:13pm
Submitted by anonymous user: [24.158.89.186]
Submitted values are:

Your Name: Lynwood Wagner
Your email address: onjwagner@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Proposed Rule 42 changes raise serious issues for interpreters. How many State of Tennessee employees have not had a raise in 10 years? Are you also cutting back on what you pay attorneys to the extent that you are reducing interpreter pay? For instance, when my wife works in Newport, which is an hour and 20 minutes away, she currently gets paid for 2.7 hours travel time, a two hour minimum and she receives full mileage reimbursement. Thanks for the new stretch of 4 lane from the Nolichucky to the Cocke County Seat but the stretch from Greeneville is still narrow, has a poor line of sight and icy spots in the long shadows when you drive it at 8 a.m in January. The pay for a day like this has been about $235 plus the mileage allowance which, while not as high as the federal rate, is adequate. If travel time is eliminated and there is no two hour minimum, and if she spent an hour in court, that would be a total remuneration of $50 or $13.51 / hour. Assuming that the omission of retention of the 2 hour minimum is an oversight, pay for this service would increase to $100 or $27.03 / hour. If half travel time was paid, this would come to $165.00 which is still a pay reduction of about 30% ! Figure in the pro bono hours that inevitably are incurred when the community realizes there is an interpreter who has the skills and willingness to assist with problems at Safe Passage, Good Samaritan, Interfaith Hospitality Network, etc. and the per hour pay drops even more. How about all the court sessions and trials that interpreters commit to only to find that the parties have settled and there won't be any work that day or worse 3 or 4 days reserved for a trial? With 24 hour notification, the State incurs no cost but the interpreter rarely has someone schedule a replacement appointment on that short notice. Now add in the time and cost of the continuing education requirement and divide by that. Billing is time consuming in itself. Do State jobs also have those requirements?

Interpreters get no benefits. By comparison, the value of State Employee benefits has skyrocketed over the last 10 years in parallel with medical costs! The completely unpredictable schedule for interpreters makes working at a "regular job" with benefits almost impossible. Interpreting is a unique skill. As you know, the certification exam is much more difficult than the bar exam if you compare passing rates. You almost have to be born with a knack for this skill that keeps court dockets flowing efficiently. Most of the interpreters signed on because of the current pay schedule and gave up opportunities to get regular jobs with benefits. The new proposals amount to "bait and switch" after interpreters have committed themselves to this program and invested many, many hours, miles and training course dollars to achieve the necessary proficiency level to keep Tennessee in federal compliance with requirements to provide competent language assistance for defendants.

Requiring filing for payment within 6 months of service is a good thing.

Lynwood Wagner

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2773

From: "Juan Randazzo" <jbrandazzo@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/10/2012 8:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, June 10, 2012 - 8:04pm
Submitted by anonymous user: [50.95.0.2]
Submitted values are:

Your Name: Juan Randazzo
Your email address: jbrandazzo@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:

My name is Juan Randazzo and I am an Interpreter and Translator in Tennessee, Certified by the Tennessee AOC and I wish to applaud the Supreme Court and the Tennessee AOC for their excellent work in ensuring linguistic access to justice though the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services.

Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I cannot agree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts.

Specifically, I am opposed to the following provisions:

1) That the 2-hour minimum payment for interpreters (previously appearing in Rule 13) has been omitted from the amended version of Rule 42. Rule 42 as Amended is intended to replace Rule 13 in its entirety. The previous provision for 2-hour minimum payment should therefore be added to Rule 42, just as it appears in Rule 13(4)(d)(6): "Interpreters shall be compensated for a minimum of two (2) hours per day when providing in-court interpretation." Without this provision it will not be economically feasible for Tennessee's court interpreters to provide services in state courts, especially when their specialized training and high quality services can bring in much higher compensation in the private sector.

2) That no payment is allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees; and that the AOC can deny such payment even when the motion is approved by the court. It would not make sense for me personally to travel to any court or location outside my own city without payment for my time when I could be earning adequate wages during that time serving my local court or other clients. Time is money and it needs to be compensated. It is unreasonable to suppose that interpreters will travel at all under these conditions, or that they have the time or training to present motions, or that there would even be time enough to approve motions both in the court and the AOC prior to travel. The entire portion of CS Rule 42 (7)(a) referring to the elimination of payment for travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."

3) That individual courts be allowed to set rates for interpreter services as long as they do not exceed the Rule 42 limitations. This can only result in courts (especially administrative staff) attempting to set unacceptably low fees and seek "lowest bidders" without concern for interpreters' competence. According to Rule 42, Section 3(c), Courts should use credentialed interpreters. Credentialed interpreters have spent a great deal of time, money and effort to earn and maintain their credentials through constant study, practice and ongoing professional development. They deserve the rates that have, up to now, been the norm, and which, although not always comparable with rates available in the private sector, have been acceptable for the level of professionalism required in legal settings. The portion of the proposed amendments referring to courts setting their own rates should be removed!

4) That "parties" be allowed to arrange for interpreter services [Amended Rule 42 §4 (a)]. It is a conflict of interest and presents an appearance of partiality for a court interpreter to be chosen by a party to a case (and especially if directly paid by that party). (Rule 41, Canon 3). Moreover, more often than not, "parties" do not have the information or knowledge needed to identify and select competent, credentialed interpreters. Allowing a "party" to arrange for his or her interpreter is tantamount to asking for family members, bilingual friends, and other non-professional individuals to work in specialized legal and quasi-legal settings. The word "party" should be removed from Amended Rule 42 §4 (a).

5) That payment for interpreting services in Languages other then Spanish (LOTS) is capped at $75/hr. In order to secure the services of competent LOTS interpreters, which may entail paying higher fees and/or bringing interpreters in from other areas, the payment rate should be left to the discretion of the requesting court. This part of Section 7(a) should be replaced by the current language in Rule 13 (4)(d)(3): "If the court finds that these rates are inadequate to secure the services of a qualified interpreter in a language other than Spanish, the court shall make written findings regarding such inadequacy and determine a reasonable rate for a qualified interpreter."

6) That there are "caps" on interpreters' daily payments ($500, $400, $250 maximum billable in one day) and that such caps can only be circumvented through a prior motion to the court and prior approval by the AOC. It is a common occurrence that during long proceedings such as trials interpreters have to stay beyond the 10 hour limit while matters are discussed among lawyers, their clients and the bench, and when juries deliberate on into the evening. If the interpreter also has a long trip home, the time invested is even longer. Likewise, sometimes attorneys can only talk with their clients after a full day's work is done. Such occurrences cannot usually be foreseen and approved beforehand. It is unjust for interpreters not to be paid for this time. Furthermore, the requirement to submit motions for approval is another unpaid time expenditure for interpreters and more unnecessary administrative expense for the AOC. Daily caps on fees and requirements for motions and pre-approval should be removed.

7) I am also concerned by the use of the phrase: " and giving due consideration to state revenues" in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof." The compensation for interpreters should not be subject to the

condition of state revenues. Competent interpreter services are the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice. Payment for such professional services is not optional nor should the amount and certainty of payment be put into doubt in this way. Like all sensible business persons, interpreters will not accept work if they think their work might not be fully compensated. This phrase should be removed from both subsections.

8) Section 7(h) of Amended Rule 42 states that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable". There is no mention of "credentialed" interpreters. Since it is unlikely that such contracts would be made with interpreters of languages for which there is no credential, the word "credentialed" should be inserted in order to ensure that the interpreters contracted and used obligatorily by courts are always credentialed interpreters.

9) In reference to the above provision for contracts, pilot programs and other alternative methods of providing and compensating interpreter services, the provision should include language to reflect that only Tennessee credentialed interpreters who live in Tennessee should be used in such programs. If not, Tennessee courts could be flooded with remote interpreting services employing interpreters whose credentials may not match Tennessee's standards and who live out-of-of state. This will make Tennessee's relatively small pool of qualified interpreters even less inclined to continue serving the courts since much of their work may be taken over by outsiders. If Tennessee's credentialed interpreters thus turn to greener fields, the millions of dollars of taxpayer and other funds spent to train and credential interpreters in Tennessee will have been wasted as it will only benefit the private sector and not the courts.

OTHER RECOMENDATIONS

In addition to the existing proposed amendments, I would like to propose the inclusion of the following provisions:

1) Cancelation policy: If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be entitled to compensation as follows: With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours.
Rationale: Interpreters are subject to the scheduling vagaries of the courts in which they work. Unlike attorneys and other court officers and personnel, interpreters who have reserved the scheduled time and refused other assignments in order to serve the court do not have any other work they can immediately undertake to replace the income lost through cancellation of the assignment. This causes interpreters to be reluctant to accept lengthy or doubtful assignments (especially trials), causing difficulties for courts.
The situation can be remedied by providing some compensation, albeit reduced, in the event of cancellation, allowing the interpreter at least a brief window to try to find another assignment.

2) Transcription/Translation (TT) of forensic recordings: The process of transcribing and translating recorded material that may be used as evidence in legal proceedings is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all established protocols, procedures and ethics that must be observed in the performance of TT work. In consequence, TT work should only be performed by specialists: credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that before any person is appointed to provide the service of Transcription and Translation of forensic recordings, they should be required to provide the court with confirmation of their training, expertise and experience.

3) In keeping with the above recommendation, it is also recommended that TT practitioners who take the stand as expert witnesses to defend their TT product be paid as an expert witnesses and not, as is the current practice, as interpreters. Providing expert testimony is completely different from interpreting and should be compensated at a higher rate. If necessary a category for Expert TT Witnesses should be added to the Rule 13 schedule of expert witness fees.

4) It would be advisable to include some kind of language to the effect that the AOC will annually or periodically review interpreter fees with an eye to considering Cost-Of-Living increases when possible.

5) The proposal to create pilot programs and other methods of efficiently providing interpreter services is interesting and challenging. I suggest that one or more representatives of the interpreting community be included in the creation and oversight of such programs in order to ensure their compatibility with interpreter concerns and acceptability by the interpreters who will, in the end, carry them out.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2775

From: "Steven Robinson" <sbrobinson85@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/10/2012 9:12 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Sunday, June 10, 2012 - 9:12pm
Submitted by anonymous user: [98.240.77.79]
Submitted values are:

Your Name: Steven Robinson
Your email address: sbrobinson85@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: I am opposed to the omission of the two hour minimum and the omission of paid travel time. These changes would have a negative impact on the system because interpreters depend upon them in order to make a living in the profession. They are not salaried employees and they may not get work every day. If these provisions are omitted, it will lead some interpreters to look elsewhere for work. This may render the courts with less qualified or experienced interpreters. The provisions will also make jobs more difficult to fill. Court dates may have to be postponed if no interpreter is appointed because interpreters will be less inclined to take jobs that will not be worth their time. Please reconsider this policy and take into account that if it is passed, there will be repercussions for interpreters and the efficiency of the judicial system.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2777

From: "M. Heidari" <mohammad_ramin30@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/10/2012 10:04 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, June 10, 2012 - 10:03pm
Submitted by anonymous user: [69.137.102.186]
Submitted values are:

Your Name: M. Heidari
Your email address: mohammad_ramin30@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:

Michael W. Catalano, Clerk,
100 Supreme Court Building,
40 1 Seventh Avenue North
Nashville, TN 372 19-1407

I am writing in regard to current changes in Rule 42 of the court. Firstly, I do like to express my appreciation of the great work done to available access to linguistic experts for deserving clients in the court.
As regards the proposed amendments to Rule 42, I would like to bring to your attention that the said amendments includes changes that I believe will be counterproductive to the advancement made in continued use of competent interpreters in the Court . This will especially have an adverse impact on AOC funded litigants.
I am opposed to the wording and/or context of some of the amendments as follows:

1. Current amendment [that each court should be allowed to set its own rate], is likely to result in the court choosing the lowest bidder regardless of linguistic skills, competence, and credentials. Credentialed interpreters have to spend a lot time, and effort to maintain their credential through study, practices, attending courses for continued professional development. They should be treated on par with other professional s. They, at least, deserve the rates that have been in place up to now. The portion of the proposed amendments referring to court setting their own rates should be removed.

2. The "Parties" be allowed to arrange for their interpreting services [Rule 42 & 4 (a)]. The word "Party" should be removed from amended Rule 42 & 4(a). The provision allows the parties involved in a dispute to provide their own interpreters. However, most parties involved in proceedings do not have the information and knowledge necessary to elect competent interpreters. The amendment will result in increased use of people [friends, family,] with limited linguistic skills, possibly exposing the Justice system to the Pandora box of appeals on the basis of inaccurate interpreting by incompetent interpreters that may, at times, side with defendant in order to change the an undesirable outcome of a ruling. This, in turn, may result in wastage of precious court time, and miscarriage of justice. These outcomes could be detrimental to the image of the court in our society. In addition, it may be argued that it will be difficult to accept the impartiality of the interpreters [in the said circumstances], which is an inherent prerequisite of the proceedings under the constitution.

3. The 2 hour minimum payment [previously part of Rule 13] has been removed from provisions of remunerating court interpreters in the revised version of Rule2. Without this provision, it will be difficult to obtain a competent interpreter for the court. I, therefore, strongly suggest to add the 2-hour minimum payment to Rule 42, just as it appears in Rule 13 (4)(d)(6). "Interpreters shall be compensated for a minimum of two hours per day when providing in court interpretation". Otherwise, interpreters will suffer financial losses that can deter them from providing services for the court.

4. The current amendments stipulate that payment for interpreting services in Languages other than Spanish (LOTS) is capped at $75/hr. It may be necessary to acquire the services of competent out of state interpreters, by paying higher fees for various reasons. The payment rate should be left to the discretion of the requesting court. This part of Section 7(a) should be replaced by the current language in Rule 13 (4)(d)(3): "If the court finds that these rates are inadequate to secure the services of a qualified interpreter in a language other than Spanish, the court shall make written findings regarding such inadequacy and determine a reasonable rate for a qualified interpreter."

5. The current provisions for remunerating interpreters for time spent travelling are unnecessarily complicated procedurally, leading to wastage of precious time of Court and interpreters. In addition, it undervalues the highly professional and skilled work of interpreters. I, personally, will not be able to provide services to the court under these arrangements. The entire portion of CS Rule 42 (7)(a) referring to elimination of payment for travel time should be removed and replaced with corresponding section of Rule 13 (d) (7) [with appropriate changes]. "Time spent travelling shall be compensated at the same rate provided for spoken foreign language in section (7) (a).

6. Compensation for services rendered by interpreters should not be conditional on state revenue. The only way to comply with constitutional right of litigants is to provide them with the services of competent interpreters. Neither is non-payments to interpreters a choice we can have, nor the payments should be put into doubt with terms that are unbefitting of the regulator[s]. I, therefore, believe `the phrase: " and giving due consideration to state revenues" should be removed from both subsections, in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof.",

7. The daily cap on fees and requirements for motions should be removed. There are currently daily caps on the payments to interpreters. Considering that payments are and should be calculated on hourly basis as it is for all other professionals in the field. It is unfair not to pay the interpreters for their hours when it exceeds the daily limits or subject them to unwarranted procedural complexity. It surely leaves an impression that their work is not as appreciated as other professionals in the field. Furthermore, the requirement for motions should be removed, in cases; the amount payable to interpreters exceeds the daily caps. As it adds to procedural complexity and is unnecessary resulting in more unpaid hours for interpreters.

Further Recommendations

1. Creating a cancellation policy for the court: Upon cancelation of a scheduled session for interpreters, the court should consider remunerating the interpreters for cancelation depending on the time-frame between the cancellation of the event and the date of event. With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours.

2. It is also commendable to have annual or periodic pay increases in line with inflation and cost of living expenses, as it is the case for other professionals.

3. Including adequate representatives of the interpreting community in the creation and oversight of pilot programs concerning interpreters so as to ensure their compatibility with interpreter concerns and acceptability by the interpreters who will, in the end, carry them out.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2778

RECEIVED
JUN 11 2012
Clerk of the Courts
Rec'd By

June 6th, 2012.

Administrative Office of the Courts,

I received my certification as a Certified Court Interpreter in Tennessee in 2011. I worked very hard to become a Certified Court Interpreter. Both, the Supreme Court and the Tennessee AOC have been doing a great job in certifying and providing qualified Interpreters for the different Courts. The AOC provided me a scholarship and also organized workshops in cities other than Nashville, which made it easier for me to obtain all my requirements. I recognize all of the effort involved in the process.

There are some provisions in the proposed amendments to Rule 42 that I do not agree with. Those are the following:

1.) 2hr min pay- We have worked so hard as interpreters to provide the best level of service. I studied very hard to pass my exam and become a Certified Court Interpreter.

There is an investment not only of money but also of time and dedication to our career. I am a professional that attens conferences and who has to comply with continuing education credits and renewal fees as well. This is my profession and how I make a living. By removing the 2hr min it will limit those that are Certified or Registered Interpreters to work in the Courts because the compensation for our services considering the level of professionalism and expertise that we provide will be reduced significantly.

Where I live, there are many occasions where I am required to drive 1 hour each way to the Courts and may only spend 20 minutes interpreting for example. Financially, it does not make sense for me to continue if we will only be compensated for the 20 minutes interpreting. The 2hr min grants the interpreter the option to always accept assignments by the Courts.

All cases guarantee a 2hr min pay, if this option is taken away it will mean that I will have to decline assignments for one defendant only and I would have to provide my professional services to those Courts that would have more defendants on one day to make sure it is worth going to the Court and that I will have enough interpreting to do in order to complete my 2hr min. It would be very unfair for us to be forced to make this decision, but even worst it would be unfair to our Courts and attorneys who expect our help with their cases, not to mention how unjust it would be for the non-English speaking individuals to which we provide our interpreting services.

There is a reason why the AOC provided me with a scholarship and has made significant efforts to get individuals Certified: We are making sure that the Courts have Professional Interpreters available to provide the best service needed when the defendant does not have an understanding of the English Language and he/she is considered Indigent in most cases. Limiting the 2hr min will make me choose who deserves my services which I am not willing to do because it will be unethical, therefore I will have to provide my services to the private sector to guarantee that I can keep making a living as an interpreter without compromising my ethics and principles.

The aformentioned comments are based on the following changes referenced in the proposed

to lower their rates. This will provide the Courts with less qualified Interpreters. The AOC has done an excellent job trying to get everyone certified and now we will be taking a step back.

4.) "Parties" arranging for interpreter services—The word "party" should be removed from Rule 42 &4(a).

That "parties" be allowed to arrange for interpreters services. It is a conflict of interest, the "parties" might not know how to look for qualified Interpreters and might not know the certification process and the importance of hiring Certified Interpreters. This can cause for said "parties" to look for non-credentialed bilingual people, family members or other non qualified individuals.

5) Payment based on State Revenues—"and giving due consideration to state revenues" in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof.

Payments should not be optional once interpreting services have been performed, and should not be subject to the condition of state revenues. When we go to perform an assignment we need to know how much payment we will receive, this is the way we make our living as professionals. This can cause less people to work hard to become Certified, if we are not guaranteed our payment why should we strive to be the best in our field? It is unfair due to the level of service we provide to the Courts.

6) Cancellation policy—There should be a cancellation policy of at least 48 hours. If we receive notice in less than 48 hours of an already established court case we should be paid in full. As interpreters we need to schedule our assignments ahead of time when ever possible. Sometimes we have to reject assignments and if the case gets canceled or reset, we will have lost our job for the day while simultaneously declining another.

7.) Pilot Programs—Pilot programs should only be done by Certified Interpreters in Tenneessee, we need to use our own resources and not look for interpreters for other states.

Thank you so much for allowing us to provide our comments on the proposed amendments.

As a Certified Interpreter these changes will really hurt my profession and I hope you consider not making them so I can continue working in the Courts.

Sincerely,

Daniela Dau
423-967-7271
132 Walkers Bend Rd
Gray, TN 37615

From: "Marvyn Bacigalupo-Tipps" <thespanishsource@comcast.net>
To: <janice.rawls@tncourts.gov>
Date: 6/11/2012 10:10 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, June 11, 2012 - 10:09am
Submitted by anonymous user: [98.240.122.79]
Submitted values are:

Your Name: Marvyn Bacigalupo-Tipps
Your email address: thespanishsource@comcast.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:

Mr Michael W. Catalano, Clerk
100 Supreme Court Building
40 1 Seventh Avenue North
Nashville, TN 372 19-1407

http://www.tncourts.gov/news/2012/05/21/supreme-court-now-accepting-comments-rule-42-standards-court-interpreters-proposed

As a Federal and Tennessee State Certified Court Interpreter and Trainer of aspiring court interpreter since the late 90's, I am writing to congratulate you on the success our outstanding state program, a model for many other states and to share my observations about the impact of the proposed changes to Rule 42.

More than most of my colleagues, I have the advantage of longevity in the field, as I began my professional career in 1976, became federally certified in 1991 and state certified with the first group of interpreters who took the Tennessee exam. I have seen how our trained and credentialed interpreters have grown, come into their own as true professionals, positively impacted the access to justice to our courts and given our LEP witnesses and defendants a voice that is not filtered through the prejudice, bias, or incompetence of an untrained, uncredentialed, ad-hoc interpreter.

Our proactive AOC has nurtured our interpreter program and garnered multiple grants representing several million dollars, as well as state funds to make our trainings outstanding and to retain our best interpreters of all languages, most of whom left lucrative employment in other fields. We reached these landmarks in a relatively short period of time. Indeed, we are often cited as a model for other states throughout the nation. For that uncommon achievement, an achievement that is at the forefront of a current, national trend, I commend the AOC and the Supreme Court.

The success of the Tennessee program has touched me personally and has been a rewarding part of my professional life as a trainer and a mentor. For this reason, together with Judith Kenigson Kristy, I founded the Tennessee Association of Professional Interpreters and Translators (TAPIT) in 200; I was the past president and now have received the honorific title of President Emerita. We are very proud that TAPIT is a well-respected professional organization at the local, regional and national level. As a member of TAPIT

and as a Tennessee Certified Interpreter, I wish to voice my concern about the following changes to the Rules.

1) Elimination of the 2-hour minimum for interpreters. It previously appeared in Rule 13 but is not in the amended version of Rule 42. Rule 42 as Amended is intended to replace Rule 13 in its entirety. Please reinstate it as it appears in Rule 13(4)(d)(6): "Interpreters shall be compensated for a minimum of two (2) hours per day when providing in-court interpretation." A minimum payment is an unquestioned, widespread practice in almost all professions. Its elimination will compel my colleagues to seek work in fields that guarantee payment whether the job takes place or not. I would go further to say it should be expanded to out-of-court situations, such as Attorney-Client meetings.
2) Elimination of travel time without a specific motion for payment; and that payment, when approved by the court, is capped at 50% of normal interpreting fees; denial by the AOC of travel time payments, even when the motion is approved by the court. About 90% of my state court work is in rural counties and I drive anywhere from 1 to 2.5 hrs. one way. It would not be economically feasible for me to continue to serve rural Tennessee courts without paid travel time. Why is travel time different? If I were not sacrificing the driving time to reach these courts, I could receive the same rate of pay or more by working for the private sector. My time is the economic foundation for my living. If I go to a court 2.5 hours away, which I do frequently, I could end up working for free for 5 hours, not to mention the wear and tear on my vehicle, if the motions paperwork to grant travel time is held up or denied. I therefore request that the entire portion of CS Rule 42 (7)(a) referring to the elimination of payment for travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."
3) Allowing individual courts to set rates for interpreters, so long as they do not exceed the Rule 42 limitations. Courts and administrative staff could sabotage the high standards and excellence of our credentialing program by attempting to set unacceptably low fees and seeking the "low bidder" without concern for competence. According to Rule 42, Section 3(c), Courts are instructed to use credentialed interpreters and certified first. Credentialed interpreters, especially certified interpreters, have spent vast amounts of their time and economic resources to earn and maintain their credentials through constant study, practice and continuous professional development. As a trainer, I know this first-hand. They should be accorded the current rates and since no increase has been given since the inception of the court program, interpreter rates should receive a standard of living adjustment. Please remove the part of the proposed amendments referring to courts setting their own rates.
4) Arrangement of interpreter services by the "parties" [Amended Rule 42 §4 (a)]. The court should not allow this situation. This is what existed in Tennessee prior to our Interpreter Program. It presents a definite conflict of interest plus the appearance of partiality when a court interpreter is chosen by a party to a case (and more so when the interpreter is directly paid by said party). (Rule 41, Canon 3). We had taxi drivers, felons, chefs, babysitters, street people and incompetent well-meaning individuals interpreting in our courts when the parties picked the interpreters! The word "party" should be removed from Amended Rule 42 §4 (a).
5) Capping payments for interpreters in Languages other then Spanish (LOTS) at $75/hr. Securing the services of competent LOTS interpreters may

necessitate paying higher fees and/or bringing interpreters in from other areas. For this reason, the payment rate should be left to the discretion of the requesting court. This part of Section 7(a) should be replaced by the current language in Rule 13 (4)(d)(3): "If the court finds that these rates are inadequate to secure the services of a qualified interpreter in a language other than Spanish, the court shall make written findings regarding such inadequacy and determine a reasonable rate for a qualified interpreter."

6) Capping interpreter daily payments ($500, $400, $250 maximum billable for one day). These caps can only be avoided by prior motion to the court and prior approval by the AOC. It is a common during long proceedings such as trials that interpreters have to stay beyond the 10 hour limit while matters are discussed among lawyers, their clients and the bench, and when juries deliberate on into the evening. If the interpreter also has a long trip home, the time invested is even longer. Likewise, sometimes attorneys can only talk with their clients after a full day's work is done. Such occurrences cannot usually be foreseen and approved beforehand. It is unjust for interpreters not to be paid for this time. Furthermore, the requirement to submit motions for approval is another unpaid time expenditure for interpreters and more unnecessary administrative expense for the AOC. Daily caps on fees and requirements for motions and pre-approval should be removed.

7) "Giving due consideration to state revenues" in 7(g)(1) and 7(j)(2) is troublesome: Interpreter compensation cannot be subject to the condition of state revenues. After all, credentialed interpreters must have the certainty that they will be paid for work performed or else they will cease to be available to our courts. They must make a living and cannot work with the uncertainty of receiving remuneration. Moreover, the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice is to provide and pay for competent, trained, credentialed professionals. This phrase should be removed from both subsections.

8) Half day and full day rates. Section 7(h) of Amended Rule 42. states that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable".

"Credentialed" should be inserted before interpreters to ensure that the interpreters contracted and used obligatorily by courts are always credentialed interpreters.

9) In reference to the above provision for contracts, pilot programs and other alternative methods of providing and compensating interpreter services, the provision should include language to reflect that only Tennessee credentialed interpreters who live in Tennessee should be used in such programs. If not, Tennessee courts could be flooded with remote interpreting services employing interpreters whose credentials may not match Tennessee's standards and who live out-of-of state. This will make Tennessee's relatively small pool of qualified interpreters even less inclined to continue serving the courts since much of their work may be taken over by outsiders. If Tennessee's credentialed interpreters thus turn to greener fields, the millions of dollars of taxpayer and other funds spent to train and credential interpreters in Tennessee will have been wasted as it will only benefit the private sector and not the courts.

OTHER RECOMENDATIONS

1) Cancelation policy: I am unaware of other states or government entities not honoring a cancellation policy. I support TAPIT's suggestion that If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be

entitled to compensation as follows: With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours.
Rationale: Interpreters are subject to the scheduling vagaries of the courts in which they work. Unlike attorneys and other court officers and personnel, interpreters who have reserved the scheduled time and refused other assignments in order to serve the court do not have any other work they can immediately undertake to replace the income lost through cancellation of the assignment. This causes interpreters to be reluctant to accept lengthy or doubtful assignments (especially trials), causing difficulties for courts.
The situation can be remedied by providing some compensation, albeit reduced, in the event of cancellation, allowing the interpreter at least a brief window to try to find another assignment.
2) Transcription/Translation (TT) of forensic recordings: I support TAPIT's suggestion regarding the process of transcribing and translating recorded material that may be used as evidence in legal proceedings, as is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all established protocols, procedures and ethics that must be observed in the performance of TT work. In consequence, TT work should only be performed by specialists: credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that before any person is appointed to provide the service of Transcription and Translation of forensic recordings, they should be required to provide the court with confirmation of their training, expertise and experience.
3) In keeping with the above recommendation, I support TAPIT's recommended that TT practitioners who take the stand as expert witnesses to defend their TT product be paid as an expert witnesses and not, as is the current practice, as interpreters. Providing expert testimony is completely different from interpreting and should be compensated at a higher rate. If necessary a category for Expert TT Witnesses should be added to the Rule 13 schedule of expert witness fees. Interpreters.

Respectfully yours,

Marvyn Bacigalupo-Tipps, Ph.D.
Tennessee State Court Certified Interpreter
Federally Certified Court Interpreter
American Translators Association Certified Translator, Spanish to English and English to Spanish
Certified Medical Interpreter
thespanishsource@comcast.net

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2779

From: "Madeleine C. Taylor" <nmemphi1@comcast.net>
To: <janice.rawls@tncourts.gov>
Date: 6/11/2012 1:59 PM
Subject: **TN Courts: Submit Comment** on Proposed Rules

Submitted on Monday, June 11, 2012 - 1:58pm
Submitted by anonymous user: [75.64.177.229]
Submitted values are:

Your Name: Madeleine C. Taylor
Your email address: nmemphi1@comcast.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: #M2012-01045-RL2-RL
Your public comments:
On behalf of the Memphis Branch NAACP , we are concerned about the porposed changes in the standards for Court Interpreters. In order for justice to prevail in our courts every person who comes before the court shourld have equal access to and understanding of the proceedings. This is provided by competent interpreters being available to them. It is our understanding that the currently proposed changes will :
-deny interpreters reimbursment for a minimum call out period (when cases are postponed or dismissed),
-deny travel reimbursement for interpreters to courts in surrounding counties therefore denying service to those counties
-courts may abitrarily deny reimbursement to interpreters for lack of funds therefore denying access to a fair and impartial hearing
-failure to seek competent interpreters to ensure quality service
It is our sincere hope that a language barrier will not determine the quality of justice in Tennessee courts.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2781

From: "Bruni Trevino Dopatka" <atka2000@juno.com>
To: <janice.rawls@tncourts.gov>
Date: 6/11/2012 3:56 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, June 11, 2012 - 3:56pm
Submitted by anonymous user: [97.89.46.65]
Submitted values are:

Your Name: Bruni Trevino Dopatka
Your email address: atka2000@juno.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: Docket # M2012-01045-RL2-RL
Your public comments:
Dear Mr. Catalano:

Since you have probably received extensive letters from fellow colleagues I will write a brief one. I have been a certified and full time court of Spanish since 2004. I own my own personal business as an interpreter and translator. My business thrives because I have work, and it is reasonably paid. If the rates are significantly reduced, I will have to re-evaluate the profitability of working for the government. I like what I do, people are happy with my work, and it is profitable. If profitability is diminished, I will perhaps have to look for other venues. Interpretation is my third profession. Many of my highly qualified fellow interpreters also have other professions to fall back on. While I understand your need to cut cost, please consider the consequences.

Sincerely,
Bruni Trevino Dopatka

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2783

From: "Kathy Howell" <soledadsole22@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/11/2012 8:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, June 11, 2012 - 8:15pm
Submitted by anonymous user: [75.131.113.6]
Submitted values are:

Your Name: Kathy Howell
Your email address: soledadsole22@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
First, I would like to commend the AOC for putting together the "Interpreter Issues Summit" this past May. I was very impressed to hear about the additional funding that will be available for the costs of spoken language interpreters for court hearings. However, I was very shocked when I read the proposed changes to RULE 42. Currently, I am seeking my Certification and I worry that if these proposed changes are accepted I won't be able to work in the Tennessee Courts as an interpreter. There are times when I get called to interpret in Court and it's almost always out of town and at least one hour away. I already know that if the two hour pay minimum and drive time pay are eliminated I will not be able to drive out of my county to interpret in Court. I may not even be able to go interpret within my county if the two hour minimum is eliminated for obvious reasons. I would actually lose money going to interpret in Court because I would spend that time driving instead of earning money. That would mean that instead of interpreting in Court I would have to accept paying assignments from my other clients. The most shocking thing of all was that we may not be paid at all if the state doesn't have the funds. I don't think anyone anywhere would accept a job if they were told there was a possibility they may not be paid.
I would like to make two additional points that have nothing to do with me or my future as a Court Interpreter. I know that the AOC is very committed to recruiting and getting Registered Interpreters certified. I attended the "Intensive Skills Building Workshop" that was held in 2011 because the AOC worked with TFLI to offer the workshop. These proposed changes not only undo the efforts of the AOC but they will most certainly discourage Registered Court Interpreters and individuals who are thinking about investing their time and money to go through the process to become certified. This brings me to my last point and it is the most important. The reason credentialed court interpreters are needed in the first place is so that LEP individuals who have dealings with the Court system can be guaranteed their rights. Some of the proposed rule changes open a Pandora's box and allow for these individual's rights to be violated because they create an environment where the work will go to the lowest bidder who is almost never the most qualified and at times not qualified at all. In closing, these proposed rules will have a negative impact on LEP individuals, the AOC itself, credentialed interpreters and anyone considering court interpreting in Tennessee as a profession.

Sincerely,
Kathy Howell, CMI-Spanish
TN Registered Court Interpreter
TAPIT Member-at-Large

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2785

From: "Alvaro Degives-Mas" <alvaro@renolanguages.com>
To: <janice.rawls@tncourts.gov>
Date: 6/11/2012 9:46 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Monday, June 11, 2012 - 9:45pm
Submitted by anonymous user: [71.83.123.142]
Submitted values are:

Your Name: Alvaro Degives-Mas
Your email address: alvaro@renolanguages.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: Court interpreting as a feasible career option in the state of Tennessee is at stake here. Allow me to put forth the sad example of the state of Nevada, which has a remuneration regime very similar to that under proposed rules, with a one-hour minimum generally set at about $35 (NV has no unified court administration district regime, so figures vary) with fractional increments, and no or a woefully insufficient travel compensation. This leads to the additional injury of rural courts being terribly underserved, therefore using "whatever they can find" to have their language service needs filled. As an overall result, the quality of interpreting is nosediving, as is the efficiency of court proceedings for non-native English speakers. With hardly (if at all) competent interpreters doing the work for their more "expensive" alternatives, the result all too often has merely a passing resemblance - if at all- with a system founded on the rule of law, not of man. From a more self-serving point of view, the opportunity for cogent and intelligent law (and ruling) enforcement therefore also has been greatly injured. And thus in Nevada, the profession of court interpreting has been virtually destroyed. Citizens of Tennessee, beware of the invariable results from these unintelligent, myopic cuts!

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2786

From: "Joseph Quillian" <pepequill@att.net>
To: <janice.rawls@tncourts.gov>
Date: 6/12/2012 4:40 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, June 12, 2012 - 4:40am
Submitted by anonymous user: [99.58.5.10]
Submitted values are:

Your Name: Joseph Quillian
Your email address: pepequill@att.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: The State of Tennessee needs certified judiciary interpreters and translators for a variety of assignments, and therefore the State should strive to retain them by offering compensation that makes sense! Moreover, the limited English speaking population of your State has the right to be served by interpreters and translators who are trained for this work, who have studied long and hard to attain their credentials! Please value your interpreters and translators who provide a valuable service!

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2787

RECEIVED
JUN 12 2012
By

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: RULE 42, RULES OF THE TENNESSEE SUPREME COURT

Comments from the Tennessee District Public Defenders Conference in response to Order No. M2012-01045-RL2-RL.

INTRODUCTION

The Supreme Court of Tennessee has solicited written comments by June 15, 2012 for the proposed revision to Supreme Court Rule 42 (hereinafter cited as "the proposed revision"). The Tennessee District Public Defenders Conference (hereinafter cited as "the conference") submits that section 7(k)(2) and section 7(k)(5) of the proposed revision, as written, do not clearly delineate the situations when the Administrative Office of the Courts (hereinafter cited as "AOC") will pay for an interpreter's services in cases involving an indigent party represented by appointed counsel in a court proceeding. The conference submits that sections 7(k)(2) and 7(k)(5) of the proposed revision be reexamined in consideration of the following proposals offered by the conference. In that regard, the conference respectfully requests that the Tennessee Supreme Court amend the proposed revision.

ANALYSIS

Upon review of the proposed revision by members of the conference, the conference has determined it is unclear as to whether section 7(k)(2) and 7(k)(5) authorize the AOC to fund investigatory and trial preparation for the representation of an indigent party. In particular, Section 7(k)(5) states, "[a]t no time will the AOC pay for the costs of interpreters in the following situations, unless pursuant to section 7(k)(2) above."[1] Further, this section proceeds to list those situations in which the AOC will not pay for an interpreter. Section 7(k)(5) appears to create an exception to the denial of coverage by the AOC if it can be shown that it is for a

[1] Order filed *per curiam* on May 18, 2012 (M2012-01045-RL2-RL).

proceeding within section 7(k)(2). The conference does not question the overall intent of this section. However, the position of the conference is that the language of the proposed revision could be made clearer if language within the subdivisions of section 7(k)(5) were written in the affirmative, as permissive services in section 7(k)(2). Respectfully, these recommendations are intended to provide appointed counsel with a clear understanding of the types of interpreter services that would be covered by the AOC for indigent representation within section 7(k)(2).[2]

I. Recommendation to the proposed revision moving elements of section 7(k)(5) within section 7(k)(2) and renumbering the remaining proposed subsections.

The conference submits revising section 7(k)(2) in the following manner (with emphasis on new subdivision):

Section 7(k)(2)

(2) In cases where an indigent party has a statutory or constitutional right to appointed counsel, as defined in 7(k)(l), interpreter costs will be paid for in the following proceedings:

(i) All court hearings;

(ii) Pre-trial conferences between defendants and district attorneys in order to relay a plea offer immediately prior to a court appearance or to discuss a continuance;

(iii) Communication between client and state funded counsel appointed pursuant to Supreme Court Rule 13;

(iv) Communications between the state funded counsel appointed pursuant to Supreme Court Rule 13 and attorneys, prosecutors, and other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial preparation, witness interviews, client

[2] It has come to the attention of the conference that some interpreters are concerned with the changes to Rule 13 and Rule 42 regarding payment for travel. Perhaps the Court would consider the concerns of the interpreters regarding the new hourly rates for travel, and the procedures for authorization of travel time.

representation at a future proceeding, or parties relating to probation treatment services;

(v) Completion of evaluations and investigations ordered by and performed for the purpose of aiding the court in making a determination.

Also, the conference submits revising sections 7(k)(4) through 7(k)(6) in the following manner (with emphasis on combining proposed subdivisions (4) and (5)):

(4) If a party does not have a statutory or constitutional right to appointed counsel, interpreter costs will only be paid in "court proceedings," as defined in section 2, and at no time, unless pursuant to section 7(k)(2), will the AOC pay for the costs of interpreters in the following situations:

(i) Communication with attorneys, prosecutors, or other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial preparation, witness interviews, or client representation at a future proceeding;

(ii) Communications relating to probation treatment services;

(iii) Any other communication which is not part of a court proceeding (including but not limited to parent education courses, batterers intervention classes, mediation, or DUI classes).

(5) All programs in which parties are statutorily required to attend or are ordered to attend, including but not limited to batterers intervention programs, parent education courses, or mediation prior to a divorce being granted, shall be paid for by the independent provider of the services or by the parties.

II. Alternative recommendation to amend the proposed revision by adding an additional comment in reference to section 7(k)(5)

Should the Court find the previous suggestion not satisfactory, the conference submits a comment to further clarify Section 7(k) (with emphasis on new comment):

Commentary. Interested persons should contact the Tennessee Administrative Office of the Courts to determine the circumstances in which interpreter services may be approved and paid for by the Administrative Office of the Courts.

Section 7(k)(5). Comment. For those parties declared indigent and who have a statutory or constitutional right to appointed counsel as defined in Section 7(k)(1), the subdivisions of Section 7(k)(5) shall be included as interpreter services available to an indigent party as those provided for in Section 7(k)(2). Section 7(k)(5) is not intended to preclude interpreter costs for trial preparation and investigation activities in the appointed representation of indigent parties.

CONCLUSION

It is the position of the conference that the language of sections 7(k)(2) and 7(k)(5) of the proposed revision be amended to clearly outline those situations in which the AOC will pay for an interpreter so that appointed counsel can effectively represent an indigent party in a court proceeding.

Respectfully submitted,

Tennessee District Public Defenders Conference

By: Guy Wilkinson by permission Jeff Henry

Guy Wilkinson
Tenn. B.P.R. #005845
President
211 Seventh Ave North, Ste. 320
Nashville, TN, 37219-1821
Phone: 615-741-5562
Fax: 615-741-5568
Email: guy.wilkinson@tn.gov

By: Jeff Henry

Jeffrey S. Henry
Tenn. B.P.R. #002420
Executive Director
211 Seventh Avenue North, Ste. 320
Nashville, TN, 37219-1821
Phone: 615-741-5562
Fax: 615-741-5568
Email: jeffrey.henry@tn.gov

From: "Josue Carmona" <viva_voz_first@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/12/2012 3:28 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Tuesday, June 12, 2012 - 3:28pm
Submitted by anonymous user: [68.95.137.22]
Submitted values are:

Your Name: Josue Carmona
Your email address: viva_voz_first@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: SC Rule 42
Your public comments:
To the Honorable Supreme Court of Tennessee:

Pleas notice my opposition to the change of rules for court interpreters. Such changes will push interpreters to exit the profession due to the inability to make a living. Sure there will be others who will take their place, the court should ask What kind of preparation those individuals will have to assist in the dispensation of Justice.

Case law is full of landmark cases where mainly defendants did not have linguistic presence in the courts. Most recently the case of THE STATE OF FLORIDA v. ALFONZO where a new trial was granted due to the herewith mentioned issue; Now there are thousands of cases in Florida waiting to be reviewed. The lack of a well prepared interpreter is ground for appeals. As you all well know appeals are expensive processes, therefore I am asking you to reconsider the changes and be mindful that appeals due to the lack of qualified interpreters may erase any "savings" the State might have in the short time.

Kindly please reconsidere, and consider the pros and cons, not just the "savings", allow the professional to do their job and remunerate the as professional.

Best Reagards

Josue Carmona MPH
Licensed Court Interpreter

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2791

From: "Sandra Jacome" <adam5619@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/12/2012 8:31 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, June 12, 2012 - 8:30pm
Submitted by anonymous user: [98.86.110.90]
Submitted values are:

Your Name: Sandra Jacome
Your email address: adam5619@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: Re: Docket # M2012-01045-RL2-RL — Proposed Amendment of Rule 42, Rules of the Tennessee Supreme Court
Your public comments:
Sandra Jácome
Certified Interpreter
PO Box 6456
Maryville, TN 37802

6/12/2012

Michael W. Catalano, Clerk
100 Supreme Court Building
40 1 Seventh Avenue North
Nashville, TN 372 19- 1407

Re: Docket # M2012-01045-RL2-RL — Proposed Amendment of Rule 42, Rules of the Tennessee Supreme Court

Dear Mr. Catalano,
I am grateful for the opportunity the AOC has provided me to develop my career as a court interpreter. In February 2004, after saving a man's job by being a conduit for communication, I realized that this was something I wanted to do. After diligent search, the only formal and accessible training I could find in Tennessee was for court interpreting. I wasn't very sure then, that as a court interpreter I would be able to help the individual LEP but soon I evolved into my full role as an interpreter realizing that my assistance to the LEPs was in facilitating communication in helping them understand our judicial system and the proceedings while at the same time helping our courts to carry out the process.

Since then I have invested thousands of dollars in seminars, conferences, workshops, study materials and examinations to improve my interpreting and translating skills. I have attended multiple trainings by trainers such as: Agustin de la Mora, Holly Mikkelson, Eta Trabing, Chang-Castillo, TFLI, TAPIT and NAJIT. I am grateful that the AOC sponsored a few of these workshops. However, even in those few cases, there was still great personal investment on my behalf for travel, lodging and the giving up of family time on many weekends to attend these events. After becoming certified in 2005, there have been few opportunities for continued improvement through the AOC. So I challenged myself by sitting and passing the Federal Written Exam in 2008. Due to obstacles beyond my control I haven't been able to sit and pass the Federal Oral Exam.

I have not taken the duty of being a professional court interpreter very

lightly. I hold it to the highest standard, being prepared and abiding by its rules of ethics.

Since 2004, when I started practicing as a registered interpreter, my income through the AOC has never been enough to make a living while covering all my self-employed expenses including business expenses and continued education. Much less has it been enough to cover other benefits that full time employees enjoy: medical insurance, retirement accounts, etc. It is my belief that most court interpreters in Tennessee cannot make a living working exclusively through the AOC. This is most certainly my case. However, the compensation rate provided until now has allowed me to reserve the time to serve several courts in my region; most often: all the courts in Loudon County, Blount Co. Juvenile Court and on occasion when other interpreters are not available: Anderson County Criminal Court, Knox Co. Juvenile Court, Meigs Co. General Sessions, Cumberland Co. General Sessions and others. Even as I am willing to travel over an hour each way to serve in the state courts, I find myself forced to supplement my income with appointments for attorneys' firms and interpreter agencies.

If the proposed changes to Rule 42 were to be upheld, I would still be very grateful to the AOC for the opportunity it has provided me to practice in the state courts for eight years. However, without the compensation of travel time it would be impossible for me to dedicate myself to a service that requires so much travel for an appointment that on most occasions is less than 2 hours long. With that said, the 2 hour minimum rate must be retained in rule 42 for credentialed interpreters to continue to provide their services to the courts.

It would probably be more acceptable to credentialed interpreters if the vocabulary in the new rules would state that the courts are required to utilize credentialed interpreters, if available, in closer proximity to the venue of the hearing before calling interpreters requiring travel from farther away.

The proposed change to include that the parties or attorneys may arrange for the interpreter causes many problems. At the beginning of my practice when I just wanted to get my foot wet as a court interpreter I had advertisements that allowed LEPs on civil cases to hire me. I soon learned after late night and weekend calls that this was not the best way for a court officer (which an interpreter is) to have contact with one party. Also, when an interpreter is called by a party's attorney, the attorneys may expect that "his" interpreter not interpret for anyone else, not even the court. Many defense attorneys are already or still are under the impression that the same interpreter cannot interpret for the prosecution during plea agreements or fact findings. Therefore, from experience, I believe that it must be the court clerks or judges assistants who should always call interpreters.

I do welcome the introduction of technology through which to provide qualified interpreters to remote areas where due to the excessive travel time they have rarely utilized the services of certified or registered interpreters, e.g.: Morgan Co. However, it needs to be clear that remote service will be provided by credentialed interpreters residing and paying taxes in Tennessee. Also that certified interpreters will be given priority for these services or any other contract work. Moreover, it has been my experience (while sitting in as backup interpreter for attorneys in Federal Courts) that remote interpreters by phone or video should not be used in

trials or hearing. I have experienced the need for an in-person interpreter in short hearings and entering of guilty pleas in complicated cases even while a remote Federal Interpreter was doing the best he could over the phone. Therefore, remote interpreters should be used in short proceedings only, such as, arraignments or traffic citations.

On many occasions, I have reserved a day or half day for a court proceeding just to learn the day before, during my drive to court or even after arriving at the courthouse that the hearing has been cancelled or reset. In these events, I am left unable to earn an income for this lost time. So I take this opportunity to request the inclusion of a cancellation policy in the new Rule 42.

The inclusion of interpreter compensation for in-court civil matters is commendable. However, in my experience, many times when an LEP has had a non-qualified interpreter out of court, when they come to court, they are more confused than if they had no meeting with their attorney with a bilingual person acting as interpreter beforehand. On many occasions however, it is pertinent that an attorney meet with his client out of court before the hearing or trial. Civil cases require much fact finding before the trial. It is my impression that providing interpreter services to an LEP and his lawyer in court only, is not sufficient in providing adequate language access.

Finally, to continue to provide my interpreting service to the courts that have come to depend on me, I would need to continue to be compensated at the usual minimum of two hours plus travel time.

Sincerely,
Sandra Jácome

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2792

From: "Wendy Willis" <wendy.willis@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/12/2012 9:43 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, June 12, 2012 - 9:42pm
Submitted by anonymous user: [98.87.32.181]
Submitted values are:

Your Name: Wendy Willis
Your email address: wendy.willis@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I am a court certified interpreter in Tennessee and have been working full-time in this profession for over five years. I want to applaud the Supreme Court and the Administrative Office of the Courts for all that has been done towards the goal of creating "justice for all" in this state and for creating such an outstanding and rigorous program for credentialing interpreters in order to meet that purpose. I am proud to be an interpreter for the courts in this state.

Unfortunately, with the proposed amendments to Supreme Court Rule 42, this seems like a terrible step backward in the progress that has been made. If these changes go into effect, along with many other credentialed interpreters, I will most likely have to seek a different line of work; aspiring interpreters seeking to enter the profession will be dissuaded; and the large (and growing) LEP population will be faced with an impossible scenario in court due to the language barrier.

As the current rule stands, I am able to work as a full-time interpreter, making my services available on a daily basis. Since I am a contractor, I am self-employed and must pay for my own private health insurance (and that of my family) and do not have any of the benefits that I enjoyed in the professional corporate jobs that I held for eight years prior to becoming an interpreter (vacation, holiday and sick pay, health insurance, life insurance, and a matching 401K). I know that I could net more income working in a corporate job, but I am passionate about interpreting and have worked hard to become certified.

Over the last five years, I have invested money, time and energy in professional training, professional resources (such as costly specialized dictionaries and glossaries, training materials, equipment, and software), conferences and workshops, professional association fees, and credentialing fees for the Administrative Office of the Courts. Never mind the costs required to have a fully functioning home office and remote accessibility at all times. Furthermore, I have to calculate in the cost of childcare and wear-and-tear on my vehicle as I travel to various locations, both inside and outside of my county of residence.

My point in expressing these personal comments about my business expenses is to say that this is a profession, a professional service that is being provided to the courts. If these proposed amendments are passed, then professional, credentialed interpreters may no longer be able to consider this a viable profession in this state and the judicial system will have to rely on less qualified interpreters to provide justice for those who need an

interpreter.

With that said, I would like to reiterate what many of my colleagues have said on the following points:

1. If the parties are allowed to arrange for their own interpreters as it states in Section 4 (a), then unqualified, non-credentialed interpreters will be filling the role of qualified, credentialed interpreters and then billing the AOC.

2. Section 7 clearly omits the 2-hour minimum fee guaranteed in Rule 13 and 7 (e) proposes not reimbursing interpreters for travel time. If my time and workday cannot be protected by, at the very least, a 2-hour minimum plus my travel time, then I would not be able to offer my services. I live in Nashville, and nearly every assignment in Davidson county is at least 30 minutes one-way. If I were to be paid only the 2-hour minimum, then after taxes, gas, and childcare cost, I would net around $50 for my day (assuming I had only one case, which is often the case). Or if my case gets continued (which commonly happens), and I'm only in court for 15 minutes, then I would end up actually losing money for having gone to work that day!

The idea of having to submit a motion to the court prior to traveling to the assignment leaves me (a) confused (b) overwhelmed by the thought of adding yet more paperwork to an already complicated process and (c) cringing at the thought of tying up the court's time with paperwork involving my travel time. In my personal experience, judges and their court clerks are extremely busy! Would these additional steps really save the state money when you consider the additional "handling" that interpreters' paperwork will require from the court staff and the AOC?

3. Section 7 (j) (2) – The phrase "and giving due consideration to state revenues" when referencing payment of the fee claims submitted by credentialed interpreters leaves me speechless! I would never agree to do a job (any job!) without knowing in advance what the agreed rate was and the terms of payment. If the state decides not to pay me for my services, does that mean that I don't have to pay the sitter for her services? How far can we extend this new freedom? I certainly hope that this was just poorly written and not really the intent.

I would also like to reiterate the suggestions many of my colleagues across the state have made to the Supreme Court regarding these proposed amendments:

1. A late-cancellation policy. An interpreter may set aside a whole day of work, only to have her assignment cancelled at the last minute with no right to any compensation.

2. Recommend that a voluntary advisory committee, composed of credentialed interpreters working in the field and other stakeholders, be established by the AOC to assist in formulating future policies and amendments.

3. A periodic review of interpreting fees upon consideration of cost-of-living factors and other market factors.

My final comment is that having served the courts in Tennessee for several years now, I can attest to the fact that there is a significant and important need for qualified, credentialed interpreters. Attorneys, judges and even

court reporters regularly comment to me what a great difference they see when they work with a qualified interpreter, and they thank me for my service. I am proud to be a professional interpreter. Proud of my profession. Proud of my colleagues and the associations that I represent, such as TAPIT.

I ask the Supreme Court to please review these proposed amendments to Rule 42 with clarity and discernment regarding the detrimental impact these changes would have on the process of justice for those who speak limited English in Tennessee.

Sincerely,
Wendy Willis

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2793

From: "Dr. Coral Getino" <spanish.language.solutions@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/13/2012 5:47 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 13, 2012 - 5:46am
Submitted by anonymous user: [99.110.65.26]
Submitted values are:

Your Name: Dr. Coral Getino
Your email address: spanish.language.solutions@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Regarding the proposed amendments to Rule 42, I would like to thank the AOC for making us aware of the new proposed rule which implies drastic changes for interpreters and for encouraging everyone to send comments, as well as the consideration given to those. I am also extremely grateful to the State of Tennessee for awarding extra funds and expanding the rule to cover non-indigent cases and civil proceedings. I hope the credential and skills I worked hard to obtain will help me get more interpreting assignments if ALL courts are required to contract professional and credentialed, Tennessee interpreters first.

I have been a Certified Spanish Interpreter since 2007, and proud to have passed the certification exam at the first try. I happen to live in a county (Knox) with a surplus of Certified Spanish interpreters (8) to my detriment. Altogether the East Tennessee region includes almost half the amount of the entire state Certified Spanish interpreters. I saw early on that I'd better diversify, if I was going to make a living in this profession that I love. I typically cover some proceedings at Knox County Juvenile Court, which also happens to be the closest court to my residence. Occasionally I get requests to interpret in other counties (Loudon, Anderson, Sevier, Blount.) My income from court interpreting last year was about $4,000. Would I rather be a part time or full time employee of Knox Count Courts? Well, yes! Of course!

Renewal of my credentials require continuous education credits that are typically obtained at out of town conferences. An approximation to cost of maintaining skills and credential could be about $1000. Even before the proposed rule, I have seen several highly skilled Certified interpreters leave the profession for others that guarantee a more steady source of income, benefits such as health and life insurance, and a retirement plan. As a self-employed professional, I have to cover my social security taxes, along with state and federal income taxes.

After reading the proposed rule I am very concerned about the omission of the two-hour minimum compensation for in-court matters. As I stated before, I wish the court could employ me for longer times, and that would make the two-hour minimum or traveling time unnecessary. If approved the proposed amendments, I will unfortunately have to make a decision if it is economically feasible for me to continue interpreting. I understand the spirit of the proposed rule is to be watchful of the funds in light of the lack of field study on civil and non-indigent interpreting cost. May I suggest that the AOC analyzes data from other states of similar LEP (Low English Proficient) populations or applies appropriate proportions.

The compensation of 2-hour minimum for occasional shorter assignments helps me to be able to compensate pro-bono work that I do in many other instances such as mediations, permanency plan meetings, last minute canceled hearings or to forgo occasions for which the interpreter is not compensated under the current rule. For example, when the defendant fails to appear in the initial appearance, or human error (cases continued and interpreter was not notified). As the 2-hour or 3-hour minimum is a standard in medical and commercial interpreting, I would have be attentive to the types of judiciary assignments that I am able to accept, for example, if required to travel 1 hour round trip for a 15-minute short matter. The elimination of paid traveling time will also make my attending needs from other areas much less likely unless contracted for half or full days.

I urge the AOC to study the LEP population of the state and the distribution of certified and registered interpreters. Currently 20% (10 out of 50) Certified Interpreters are residents of other states, and they likely took our state's certification in preparation of the Federal certification. Strikingly, there are areas where there are many more interpreters than are needed (namely Knox County), and many others, specially rural areas such as Loudon, Hancock counties with a high concentration of Spanish-speaking individuals and not one credentialed interpreter. The need of credentialed interpreters for languages other than Spanish is also an obvious fact.

I welcome the idea of AOC trying different pilot programs regarding remote interpreting, but I think it is vital to involve Certified interpreters in the development and evaluation of such programs, and I hope participation in those programs is not limited to a few chosen interpreters. First and foremost remote interpreting programs should employ Tennessee Interpreters, who in turn, pay taxes in the state of Tennessee. Also attention should be given to technical or professional expertise of all credentialed interpreters, keeping in mind that those of us who work in other fields as well as judiciary interpreting may have more diversified skills that others who do.

As excited as I am about the prospective of the rule covering civil cases, or other non-indigent criminal cases, I am concerned about the process those courts will follow for securing the services of credentialed interpreters versus non-credentialed by private parties. Direct advertisement or solicitation is against Cannon 3 of the Judiciary Interpreter's Cannon, as it could jeopardize the perception of impartiality of the Court Interpreter. Parties could bring in relatives or friends, whom whether credentialed or not, are not impartial. In my opinion, for LEP cases, if the state is covering the interpreter's bill, the parties should disclose they need an interpreter when filing their petition, and the Court should appoint a Credentialed interpreter at the court's discretion.

As reviews of the rules are not frequent, I would like to take this opportunity to respectfully submit that cancelation policies are also a common industry standard. Specially if minimum fee and traveling time are not included in the reviewed rule, a sound cancellation fee may be a necessity, as time reserved for an assignment often does not get covered with another once the first one falls through.

I wholeheartedly thank AOC's efforts on first establishing an Interpreters Program, and later helping educate Judges and Clerks on how to best use it. As this programs expands, and given concerns about administrating well those

funds, I hope a reasonable rule may be drafted that will provide the minimum compensation needed for interpreters to continue to interpret, a rule that will guide courts to appoint interpreters by credentialing status and geographical proximity (which will save on traveling cost), provide fair opportunities for all credentialed interpreters to use their skills, so that the effort and money spent on Tennessee's credentialing program is not "wasted" by many favoring other more secure jobs.

Respectfully submitted,

Dr. Coral Getino, Certified Court Interpreter

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2794

From: "Yasin Sarayrah" <sarayra2@yahoo.com>
To: <janice.rawls@tncourts.gov>
Date: 6/13/2012 8:07 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 13, 2012 - 8:06am
Submitted by anonymous user: [174.50.225.203]
Submitted values are:

Your Name: Yasin Sarayrah
Your email address: sarayra2@yahoo.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: My average income from court interpretation at the present time is already minimal, so the impact of Supreme Court Rule 42 would make it virtually impossible to serve and would be very detrimental to the justice system.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2795

From: "Lee Hockaday" <leehockaday@jis.nashville.org>
To: <janice.rawls@tncourts.gov>
Date: 6/13/2012 3:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 13, 2012 - 3:49pm
Submitted by anonymous user: [170.190.198.96]
Submitted values are:

Your Name: Lee Hockaday
Your email address: leehockaday@jis.nashville.org
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
With the proposed amendments to Supreme Court Rule 42, our State Legislature and Administrative Office of the Courts have taken bold steps to increase language access in Tennessee courts in a landmark attempt to provide "justice for all". I am delighted to hear about the new funding for interpreters, regardless of the financial circumstances of the party, applied also to civil cases.
As both a judicial administrative employee and a certified court interpreter, I can understand the tightrope the A.O.C. has to walk in order to ensure access to justice while at the same time being a good steward of public funds.
With this in mind, some aspects of the proposed changes are detrimental to the Tennessee courts, the limited-English proficiency public, and the court interpreting profession.
Section 4:

- 4(a) allows appearances by interpreters appointed under Rule 42 to be "arranged by the attorney, party, court clerk, or judicial assistant, as determined by the local rules or at the direction of the court." The allowance of a "party" to arrange for the interpreter is inconsistent with the goal of uniformly using credentialed interpreters at the approved rates. This could also create a conflict of interest if the interpreter is chosen and paid by one of the parties. The word "party" should be eliminated from this section.

Section 7:

- 7(a) The statement requiring a minimum payment of two hours for in-court interpreting events has been omitted. It should be reinstated. It will be more difficult to schedule interpreters for our courts without at least a two-hour minimum fee guarantee.

7(a) allows courts in which interpreting services are rendered to determine what is "reasonable compensation" (as long as compensation doesn't exceed the rule's limitations). That sentence should be eliminated.

- The entire portion of Section 7(a) referring to denial of payment for travel time compensation should be replaced by the current Rule 13 Section 4(d)(7) which states: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 4(d)(3) (but changing "4(d)(3)" to "7(a)".)" Here is why:

o 7(e) NO payment or reimbursement for travel time to and from assignments is allowed, unless, prior to the assignment, a motion is filed in the court where services are sought, requesting payment for travel time and stating

"specific factual allegations demonstrating that the requested expenses are necessary". In other words, the burden is on the interpreter to "prove", factually, that such payment is necessary. This is not feasible-interpreters do not have the expertise to prepare such motions and our courts do not have time to consider and approve such motions in advance of the date of service.

o 7(e) If a motion for payment of travel time is granted by the court, it is limited to 50% of the rate of pay established for in-court interpreting. This is unacceptable – payment should be the same for travel and interpreting, since time is money.

o 7(e) Finally, even if the motion for payment for travel time (at 50%) is granted by the court, the AOC still has the right to deny such payment; this is simply unfair to the interpreter.

• 7(g)(1) "Claims for compensation forms" must now be signed by the court. This will be problematic for out-of-court interpreting assignments, as well as create more paperwork for the judge to have to sign. Previously, it could be court or counsel; this should be reinstated, as the attorney can better verify the time claimed by the interpreter on out of court assignments.

• 7(g)(1) The proposed rule states that the AOC has the duty of examining and auditing all claims for compensation "giving due consideration to state revenues." This phrase is ambiguous and should be eliminated. Once the requested services have been performed, payment should not be optional.

• 7(h) The AOC Director may contract with interpreters for half or full day rates (no mention of CREDENTIALED interpreters) and if the AOC director does so, courts MUST use those interpreters unless they are not available. This needs further explanation or elimination. This could lead to the incursion of outside agencies/contractors into the system with no requirement that the interpreters be credentialed and typically at no cost savings to the court, since these agencies act as a "middle man" charging their fee on top of what the interpreters are paid.

• 7(j)(3), (4) and (5). Non-indigent LEP litigants in certain situations [see Section 7(k)(1)], and litigants who have no "statutory or constitutional right to appointed counsel" can receive interpreter services paid by the AOC only in "court proceedings". I certainly applaud the increased funding for interpreters in circumstances in which previously they would not qualify for an appointed interpreter. At the same time, I encourage the court to take the next logical and fair step, which is to provide funding for interpreting services for all necessary and relevant communications with the attorney, up to a maximum number of "out of court" hours.

If the proposed changes are implemented it will be more difficult for us to recruit, credential, locate, schedule, and even retain professional interpreters for our courts. We would be doing a disservice to the quality interpreters that now service our courts as well as undermining the hard work and aspirations of many that have contributed to make improvements in our court system and our society.

Sincerely,
Lee Hockaday

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2800

From: "Maria C. Ysaac" <ceciliakansas@aol.com>
To: <janice.rawls@tncourts.gov>
Date: 6/13/2012 4:03 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 13, 2012 - 4:02pm
Submitted by anonymous user: [67.48.22.228]
Submitted values are:

Your Name: Maria C. Ysaac
Your email address: ceciliakansas@aol.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Attn: Mr. Michael W. Catalano, Clerk
100 Supreme Court Building
40 1 Seventh Avenue North
Nashville, TN 372 19-1407

Docket number: M2012-01045-RL2-RL

I am as Interpreter in Kansas, Certified by the MO AOC and I wish to applaud the Supreme Court and the Tennessee AOC for their excellent work in ensuring linguistic access to justice though the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services.
Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I cannot agree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts.
In support of my Certified Tennessee Court colleagues, I am specifically opposed to the following provisions:
1) That the 2-hour minimum payment for interpreters (previously appearing in Rule 13) has been omitted from the amended version of Rule 42. Rule 42 as Amended is intended to replace Rule 13 in its entirety. The previous provision for 2-hour minimum payment should therefore be added to Rule 42, just as it appears in Rule 13(4)(d)(6): "Interpreters shall be compensated for a minimum of two (2) hours per day when providing in-court interpretation." Without this provision it will not be economically feasible for Tennessee's court interpreters to provide services in state courts, especially when their specialized training and high quality services can bring in much higher compensation in the private sector.
2) That no payment is allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees; and that the AOC can deny such payment even when the motion is approved by the court. [Here you can include your own reasons for not traveling without pay... "I personally would not travel to any court or location outside my own city without payment for my time. I could be earning good money during that time serving my local court or other clients. My time is my product – it needs to be compensated!" or "Travel to the court is part of the assignment. It should be paid the same as time in court.", etc etc.] It is unreasonable to suppose that interpreters will travel at all under these conditions, or that they have the time or training to present motions, or that there would even be time enough to approve motions both in the court and the AOC prior to travel. The entire portion of CS Rule 42 (7)(a) referring to the elimination of payment for

travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."

3) That individual courts be allowed to set rates for interpreter services as long as they do not exceed the Rule 42 limitations. This can only result in courts (especially administrative staff) attempting to set unacceptably low fees and seek "lowest bidders" without concern for interpreters' competence. According to Rule 42, Section 3(c), Courts should use credentialed interpreters. Credentialed interpreters have spent a great deal of time, money and effort to earn and maintain their credentials through constant study, practice and ongoing professional development. They deserve the rates that have, up to now, been the norm, and which, although not always comparable with rates available in the private sector, have been acceptable for the level of professionalism required in legal settings. The portion of the proposed amendments referring to courts setting their own rates should be removed!

4) That "parties" be allowed to arrange for interpreter services [Amended Rule 42 §4 (a)]. It is a conflict of interest and presents an appearance of partiality for a court interpreter to be chosen by a party to a case (and especially if directly paid by that party). (Rule 41, Canon 3). Moreover, more often than not, "parties" do not have the information or knowledge needed to identify and select competent, credentialed interpreters. Allowing a "party" to arrange for his or her interpreter is tantamount to asking for family members, bilingual friends, and other non-professional individuals to work in specialized legal and quasi-legal settings. The word "party" should be removed from Amended Rule 42 §4 (a).

5) That payment for interpreting services in Languages other then Spanish (LOTS) is capped at $75/hr. In order to secure the services of competent LOTS interpreters, which may entail paying higher fees and/or bringing interpreters in from other areas, the payment rate should be left to the discretion of the requesting court. This part of Section 7(a) should be replaced by the current language in Rule 13 (4)(d)(3): "If the court finds that these rates are inadequate to secure the services of a qualified interpreter in a language other than Spanish, the court shall make written findings regarding such inadequacy and determine a reasonable rate for a qualified interpreter."

6) That there are "caps" on interpreters' daily payments ($500, $400, $250 maximum billable in one day) and that such caps can only be circumvented through a prior motion to the court and prior approval by the AOC. It is a common occurrence that during long proceedings such as trials interpreters have to stay beyond the 10 hour limit while matters are discussed among lawyers, their clients and the bench, and when juries deliberate on into the evening. If the interpreter also has a long trip home, the time invested is even longer. Likewise, sometimes attorneys can only talk with their clients after a full day's work is done. Such occurrences cannot usually be foreseen and approved beforehand. It is unjust for interpreters not to be paid for this time. Furthermore, the requirement to submit motions for approval is another unpaid time expenditure for interpreters and more unnecessary administrative expense for the AOC. Daily caps on fees and requirements for motions and pre-approval should be removed.

7) I am also concerned by the use of the phrase: " and giving due consideration to state revenues" in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction

thereof." The compensation for interpreters should not be subject to the condition of state revenues. Competent interpreter services are the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice. Payment for such professional services is not optional nor should the amount and certainty of payment be put into doubt in this way. Like all sensible business persons, interpreters will not accept work if they think their work might not be fully compensated. This phrase should be removed from both subsections.

8) Section 7(h) of Amended Rule 42 states that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable". There is no mention of "credentialed" interpreters. Since it is unlikely that such contracts would be made with interpreters of languages for which there is no credential, the word "credentialed" should be inserted in order to ensure that the interpreters contracted and used obligatorily by courts are always credentialed interpreters.

9) In reference to the above provision for contracts, pilot programs and other alternative methods of providing and compensating interpreter services, the provision should include language to reflect that only Tennessee credentialed interpreters who live in Tennessee should be used in such programs. If not, Tennessee courts could be flooded with remote interpreting services employing interpreters whose credentials may not match Tennessee's standards and who live out-of-of state. This will make Tennessee's relatively small pool of qualified interpreters even less inclined to continue serving the courts since much of their work may be taken over by outsiders. If Tennessee's credentialed interpreters thus turn to greener fields, the millions of dollars of taxpayer and other funds spent to train and credential interpreters in Tennessee will have been wasted as it will only benefit the private sector and not the courts.

In addition to the existing proposed amendments, I would like to propose the inclusion of the following provisions:

1) Cancelation policy: If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be entitled to compensation as follows: With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours.

Rationale: Interpreters are subject to the scheduling vagaries of the courts in which they work. Unlike attorneys and other court officers and personnel, interpreters who have reserved the scheduled time and refused other assignments in order to serve the court do not have any other work they can immediately undertake to replace the income lost through cancellation of the assignment. This causes interpreters to be reluctant to accept lengthy or doubtful assignments (especially trials), causing difficulties for courts. The situation can be remedied by providing some compensation, albeit reduced, in the event of cancellation, allowing the interpreter at least a brief window to try to find another assignment.

2) Transcription/Translation (TT) of forensic recordings: The process of transcribing and translating recorded material that may be used as evidence in legal proceedings is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all established protocols, procedures and ethics that must be observed in the performance of TT work. In consequence,

TT work should only be performed by specialists: credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that before any person is appointed to provide the service of Transcription and Translation of forensic recordings, they should be required to provide the court with confirmation of their training, expertise and experience.

3) In keeping with the above recommendation, it is also recommended that TT practitioners who take the stand as expert witnesses to defend their TT product be paid as an expert witnesses and not, as is the current practice, as interpreters. Providing expert testimony is completely different from interpreting and should be compensated at a higher rate. If necessary a category for Expert TT Witnesses should be added to the Rule 13 schedule of expert witness fees. interpreters.

4) It would be advisable to include some kind of language to the effect that the AOC will annually or periodically review interpreter fees with an eye to considering Cost-Of-Living increases when possible.

5) The proposal to create pilot programs and other methods of efficiently providing interpreter services is interesting and challenging. I suggest that one or more representatives of the interpreting community be included in the creation and oversight of such programs in order to ensure their compatibility with interpreter concerns and acceptability by the interpreters who will, in the end, carry them out.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2801

From: "Patricia Harpstrite" <harpstrij001@hawaii.rr.com>
To: <janice.rawls@tncourts.gov>
Date: 6/13/2012 4:39 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, June 13, 2012 - 4:39pm
Submitted by anonymous user: [66.8.177.168]
Submitted values are:

Your Name: Patricia Harpstrite
Your email address: harpstrij001@hawaii.rr.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I am a Master Certified Interpreter in Hawaii, where our own Judiciary unfortunately is also proposing amendments to the Court Rules which, like the proposed rule changes in Tennessee, would seriously limit access to justice for LEPs, especially in the less urbanized areas of the state. Tennessee's short-sighted efforts to cut back on payments to state credentialed interpreters will undermine years of effort by the Judiciary itself to develop a program of training and testing intended to provide ethical and competent court interpreters to LEP defendants and victims throughout the state.

I urge the Tennessee Judiciary to maintain policies such as the 2-hour minimum and payment for travel which make it worthwhile for credentialed interpreters to accept appointments that require them to travel. A cancellation policy should also be adopted Individual courts should not be permitted to set lower rates. In order to ensure quality interpretation and to avoid conflict of interest, "parties" should not be allowed to select and pay interpreters.

The compensation for interpreters should not be subject to the condition of state revenues. Competent interpreter services are the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2802

From: "Maureen Villalobos" <marvillalobos@comcast.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 12:08 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 12:07am
Submitted by anonymous user: [76.22.147.116]
Submitted values are:

Your Name: Maureen Villalobos
Your email address: marvillalobos@comcast.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
June 13th, 2012

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Docket Number: M2012-01045-RL2-RL

I congratulate you Supreme Court and Tennessee AOC, I am so proud to know that our State is now part of all the others making efforts to ensure justice is accessible in all legal settings to people who do not speak English by creating Rule 42.

I know for a fact you are very knowledgeable of the time, money and effort required to be a professional and Certified Interpreter/Translator. I am a Certified Court Interpreter/Translator in the State of Tennessee and after a detailed analysis of all the provisions of Rule 42, I offer the following comments to the parts I consider are affecting my profession in a very negative way.

1. I hope it is just an overlook that the new Rule 42 does not include the 2 hour minimum payment and by the time you get my comments it would be already included. Interpreters render their services at a great expense and can't run the risk of getting to an assignment only to find out it has been cancelled and not getting any kind of monetary retribution.

2. The entire portion of Rule 42(7((a) should also be replaced as it indicates no travel time is to be paid without a specific motion duly approved by the Courts. I really think that given the assumption that interpreters/translators had the expertise, time and training to write them (which most of us do not) this would only pose an administrative nightmare because Judges are already too busy as it is to also have to entertain multiple motions by interpreters every day. In my personal case I know I could not provide my services under these conditions and also I know this would defeat the purpose of speedy services in Court. Can we stop for a minute to think about the delay of services meanwhile interpreters wait for prior- approval of such expenses?

3. Allowing individual Courts to set rates for interpreter services while observing the limitations on Rule 42 will only be chaos. What would this do to the Credential program the AOC has work so hard to implement when the

result could be unacceptable low fees and low bidders? As it is interpreters have accepted the rates they have even though they are not always comparable with the rates on the private sector for the level of professionalism required in legal settings.

4. Remove the word "Party" from Rule 42§4 (a) as it puts at risk the impartiality of court interpreters when their payment is provided by "the party". This could have as a result the use of family members, friends and other non professional individuals to do the interpretations disregarding the qualifications established by the AOC.

5. Daily limits on payments to Court Interpreters are only a sign of the little knowledge there is about our profession. As interpreters we usually know exactly when our assignments begin but there is no way for us to know in advance when they will finish. Given a day when we have already met the daily limit, are the interpreters expected to leave such job assignment even if it is not finished or are we expected to work for free?

6. The compensation for interpreters should not depend on state revenues. Would our State have employees if there was a rule like such applied to their compensation? Would our Court system be able to comply with Federal mandates in absence of interpreters?

7. In order to ensure that the interpreters contracted and used obligatorily by courts are always credentialed the word "Credentialed" must be included on Section 7(h) of Amended Rule 42 which mentions that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable".

8. I also strongly support the following concerns and other recommendations by my fellow colleagues:

a. " In reference to the provision for contracts, pilot programs and other alternative methods of providing and compensating interpreter services, the provision should include language to reflect that only Tennessee credentialed interpreters who live in Tennessee should be used in such programs. If not, Tennessee courts could be flooded with remote interpreting services employing interpreters whose credentials may not match Tennessee's standards and who live out-of-of state. This will make Tennessee's relatively small pool of qualified interpreters even less inclined to continue serving the courts since much of their work may be taken over by outsiders. If Tennessee's credentialed interpreters thus turn to greener fields, the millions of dollars of taxpayer and other funds spent to train and credential interpreters in Tennessee will have been wasted as it will only benefit the private sector and not the courts"

b. "Cancelation policy: If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be entitled to compensation as follows: With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours"

c. " Transcription/Translation (TT) of forensic recordings: The process of transcribing and translating recorded material that may be used as evidence in legal proceedings is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all established protocols, procedures and ethics that must be observed in the performance of TT work. In consequence, TT work should only be performed by specialists: credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that before any person is appointed to provide the service of Transcription and Translation of forensic recordings, they should be required to provide the court with confirmation of their training, expertise and experience"

d. "In keeping with the above recommendation, it is also recommended that TT practitioners who take the stand as expert witnesses to defend their TT product be paid as an expert witnesses and not, as is the current practice, as interpreters. Providing expert testimony is completely different from interpreting and should be compensated at a higher rate. If necessary a category for Expert TT Witnesses should be added to the Rule 13 schedule of expert witness fees.

e. "It would be advisable to include some kind of language to the effect that the AOC will annually or periodically review interpreter fees with an eye to considering Cost-Of-Living increases when possible".

f. "The proposal to create pilot programs and other methods of efficiently providing interpreter services is interesting and challenging. I suggest that one or more representatives of the interpreting community be included in the creation and oversight of such programs in order to ensure their compatibility with interpreter concerns and acceptability by the interpreters who will, in the end, carry them out".

To close my comments I would like to thank you for the opportunity to voice my opinion and also let you know I consider of extreme importance on the creation of new rules and regulations targeted to specific groups; that ample participation be provided to such groups for the sake of fairness and practicality.

Respectfully,

Maureen Villalobos
Certified Judicial Interpreter/Translator

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2803

From: "Lee E Ledbetter" <lledbet@charter.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 8:57 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 8:56am
Submitted by anonymous user: [166.248.79.0]
Submitted values are:

Your Name: Lee E Ledbetter
Your email address: lledbet@charter.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: Please reconsider your proposed rule change disallowing travel expense reimbursement for court interpreters. I am an assistant district attorney general working I'm the 9th Judicial District and we will lose our interpreter if the change is implemented. We will NOT be able to effectively administer justice in her absence.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2804

FILED
JUN 14 2012
Clerk of the Courts
Rec'd By_____

OFFICE OF THE DISTRICT ATTORNEY GENERAL

June 14, 2012

VICTOR S. JOHNSON III
District Attorney General

HAND DELIVERED

Mr. Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: *Amendment of Rule 42, Rules of the Tennessee Supreme Court*
M2012-01045-RL2-RL

Dear Mike:

I have been asked on behalf of the Tennessee District Attorneys General Conference to comment on the proposed amendment offered by the Administrative Office of the Courts to Rule 42 of the Rules of the Tennessee Supreme Court. I am very heartened that the AOC has been a leader in the provision of equal access to justice in courtrooms around our state. The recent allocation in the 2012-2013 Tennessee budget of $3 million for interpretation services provides a unique opportunity to give more Tennesseans a greater ability to seek justice. This effort, in response to the U.S. Department of Justice mandate to state trial courts to provide "meaningful access" to Limited English Proficient ("LEP") individuals under Title VI of the 1964 Civil Rights Act, is certainly to be lauded.

However, after reviewing AOC's proposed Rule 42, I realized that there is no specific provision in the proposed rule dealing with interpretation services for victims of crime. A slight alteration of the proposed rule by the addition of the enclosed subsection specifically dealing with victims of crime would clear up any ambiguity about the access that victims of crime have to interpretation services. Clearly both Governor Haslam and the Tennessee General Assembly intended to give litigants in our justice system the same access to justice regardless of their language abilities. To inadvertently deprive victims of crime the same access to justice because of their unique position in the justice system would violate the intent of the legislature's funding provisions and the spirit – if not the letter – of Title VI of the 1964 Civil Rights Act as well as rights of victims of crime accorded in Article I, Sec. 35 of the Tennessee Constitution.

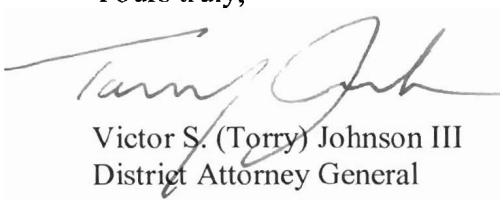
This slight change would likely represent a nominal portion of the proposed $3 million budget for interpretation services. In Davidson County, for example, over 90% of victims of crime speak the same language as the defendant in any given case. Under Rule 42 as it stands today –

Washington Square, Suite 500 • 222 2nd Avenue North • Nashville, TN 37201-1649
Tel. 615 862-5500 • Fax 615 862-5599

even without the AOC amendment – the State would provide interpretation services to LEP defendants. In cases where the victim of crime spoke the same language as the defendant, there would be no need for additional services because technology would allow the interpreter providing services for LEP defendants to simultaneously interpret for victims of crime as well. Because of this fact, there remain only a small number of victims of crime who would need interpretation services. Yet the issue is one of fundamental fairness and the guarantee of access to justice in the same way that a litigant in the civil courts deserves. Just within the past year, our office prosecuted two (2) separate cases in which foreign nationals from Germany and Japan were murdered. Their family members spoke no English, and it was imperative that interpretation services be provided so they could follow the proceedings and see that justice was done. I doubt the AOC intended for the proposal to leave these families without interpretation services; but because this ambiguity remains in the proposed rule, it is not only a likely scenario, it is a certain scenario.

Tennessee's District Attorneys would respectfully request that this simple change be made to the proposed rule so that the AOC's commendable efforts to provide access to justice to LEP parties can be extended to victims who, through no act of their own, find themselves as invested in the justice system as any other litigant.

Yours truly,



Victor S. (Torry) Johnson III
District Attorney General

VSJ/of
cc: C. Michael Layne, President
Tennessee District Attorney Generals Conference
Wally Kirby, Executive Director
Tennessee District Attorney Generals Conference

Rule 42 (k) *proposed new subsection (7)*

"In a criminal case, a victim of crime or the victim's next-of-kin in a homicide case shall be considered a party to the case for the purposes of this rule only."

RECEIVED
JUN 14 2012
Clerk of the Courts
Rec'd By

Mr. Catalano,

Of course we're not doing enough to help non-English speaking persons in our court systems.

Yes, please expand translation and other services in our state courts.

Thank you.

[illegible], MSN, RN.

37013

P.S. Please don't come to the racist lunatics who believe people who don't speak English deserve no help.

RECEIVED
JUN 14 2012
Clerk of the Courts
Rec'd By

Michael W. Catalano, Clerk

100 Supreme Court Building

401 Seventh Ave. N

Nashville, TN 372019

June 13, 2012

To whom it may concern:

In regards to the proposed rule change to expand translation services for state courts, I support this. The current practice is like providing translation only during a surgery and not before so someone can prepare, and not after when the person needs to know the result and proper follow up steps. And these court cases can be just as important to someone's life as a major surgery. The fact that this is not already happening is embarrassing for the state. To save money at the expense of those who cannot properly represent themselves is morally wrong. I like to think that the state of Tennessee is not accurately represented with the backwards, negative stereotypes. But when laws or practices like this are pointed out, it is hard not to agree.

I support providing translation services to all people who do not speak fluent English. These services should be provided throughout the process of legal proceedings.

Rebecca Edwards

Nashville, TN

From: "Andres Urdaneta" <andres@painterpreter.com>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 9:17 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 9:17am
Submitted by anonymous user: [74.82.68.144]
Submitted values are:

Your Name: Andres Urdaneta
Your email address: andres@painterpreter.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I am an Certified Judiciary Interpreter by the Administrative Office of Pennsylvania Courts, and I wish to applaud the Tennessee Judiciary for their excellent work in ensuring linguistic access to justice though the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services.
Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I disagree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts and undermine our profession.
Specifically, I am opposed to the following provisions:
1) That the 2-hour minimum payment for interpreters has been omitted from the amended version of Rule 42. Rule 42 as Amended is intended to replace Rule 13 in its entirety. The previous provision for 2-hour minimum payment should therefore be added to Rule 42, just as it appears in Rule 13(4)(d)(6): "Interpreters shall be compensated for a minimum of two (2) hours per day when providing in-court interpretation." Without this provision it will not be economically feasible for Tennessee's court interpreters to provide services in state courts, especially when their specialized training and high quality services can bring in much higher compensation in the private sector.
2) That no payment is allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees; and that the AOC can deny such payment even when the motion is approved by the court. I personally would travel to any court or location outside my own city without a minimum payment for my travel time of 50% of my regular hourly rate. I could be earning good money during that time serving my local court or other clients. My time is my product – it needs to be compensated! It is unreasonable to suppose that interpreters will travel at all under these conditions, or that they have the time or training to present motions, or that there would even be time enough to approve motions both in the court and the AOC prior to travel. The entire portion of CS Rule 42 (7)(a) referring to the elimination of payment for travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."
3) A standarized compensation schedule should be published by the AOC to avoid the low-bidders and less qualified interpreters to provide services more often than certified interpreters. This will result on not providing equal justice to LEPs. According to Rule 42, Section 3(c), Courts should use credentialed interpreters. Credentialed interpreters have spent a great deal of time, money and effort to earn and maintain their credentials through constant study, practice and ongoing professional development. They deserve

the rates that have, up to now, been the norm, and which, although not always comparable with rates available in the private sector, have been acceptable for the level of professionalism required in legal settings. The portion of the proposed amendments referring to courts setting their own rates should be removed!

4) That "parties" be allowed to arrange for interpreter services [Amended Rule 42 §4 (a)]. It is a conflict of interest and presents an appearance of partiality for a court interpreter to be chosen by a party to a case (and especially if directly paid by that party). (Rule 41, Canon 3). Moreover, more often than not, "parties" do not have the information or knowledge needed to identify and select competent, credentialed interpreters. Allowing a "party" to arrange for his or her interpreter is tantamount to asking for family members, bilingual friends, and other non-professional individuals to work in specialized legal and quasi-legal settings. The word "party" should be removed from Amended Rule 42 §4 (a).

5) I agree that payment for interpreting services in Languages other than Spanish (LOTS) is capped at $75/hr.

6) That there are "caps" on interpreters' daily payments ($500, $400, $250 maximum billable in one day) and that such caps can only be circumvented through a prior motion to the court and prior approval by the AOC. It is a common occurrence that during long proceedings such as trials interpreters have to stay beyond the 10 hour limit while matters are discussed among lawyers, their clients and the bench, and when juries deliberate on into the evening. If the interpreter also has a long trip home, the time invested is even longer. Likewise, sometimes attorneys can only talk with their clients after a full day's work is done. Such occurrences cannot usually be foreseen and approved beforehand. It is unjust for interpreters not to be paid for this time. Furthermore, the requirement to submit motions for approval is another unpaid time expenditure for interpreters and more unnecessary administrative expense for the AOC. Daily caps on fees and requirements for motions and pre-approval should be removed.

7) I am also concerned by the use of the phrase: " and giving due consideration to state revenues" in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof." The compensation for interpreters should not be subject to the condition of state revenues. Competent interpreter services are the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice. Payment for such professional services is not optional nor should the amount and certainty of payment be put into doubt in this way. Like all sensible business persons, interpreters will not accept work if they think their work might not be fully compensated. This phrase should be removed from both subsections.

8) Section 7(h) of Amended Rule 42 states that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable". There is no mention of "credentialed" interpreters. Since it is unlikely that such contracts would be made with interpreters of languages for which there is no credential, the word "credentialed" should be inserted in order to ensure that the interpreters contracted and used obligatorily by courts are always credentialed interpreters.

9) In reference to the above provision for contracts, pilot programs and other alternative methods of providing and compensating interpreter services, the provision should include language to reflect that only Tennessee

credentialed interpreters who live in Tennessee should be used in such programs. If not, Tennessee courts could be flooded with remote interpreting services employing interpreters whose credentials may not match Tennessee's standards and who live out-of-of state. This will make Tennessee's relatively small pool of qualified interpreters even less inclined to continue serving the courts since much of their work may be taken over by outsiders. If Tennessee's credentialed interpreters thus turn to greener fields, the millions of dollars of taxpayer and other funds spent to train and credential interpreters in Tennessee will have been wasted as it will only benefit the private sector and not the courts.

OTHER RECOMENDATIONS

Here are a few more suggestions for inclusion in your letter. They do not appear in the Proposed Amendments but we might as well as take advantage of a moment when changes are being made to lobby for these additional changes:

In addition to the existing proposed amendments, I would like to propose the inclusion of the following provisions:

1) Cancelation policy: If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be entitled to compensation as follows: With more than 48 business hours advance cancellation notice: No payment. With 48 business hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last 2 or more days, payment of 8 hours.

Rationale: Interpreters are subject to the scheduling vagaries of the courts in which they work. Unlike attorneys and other court officers and personnel, interpreters who have reserved the scheduled time and refused other assignments in order to serve the court do not have any other work they can immediately undertake to replace the income lost through cancellation of the assignment. This causes interpreters to be reluctant to accept lengthy or doubtful assignments (especially trials), causing difficulties for courts.

The situation can be remedied by providing some compensation, albeit reduced, in the event of cancellation, allowing the interpreter at least a brief window to try to find another assignment.

2) Transcription/Translation (TT) of forensic recordings: The process of transcribing and translating recorded material that may be used as evidence in legal proceedings is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all established protocols, procedures and ethics that must be observed in the performance of TT work. In consequence, TT work should only be performed by specialists: credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that before any person is appointed to provide the service of Transcription and Translation of forensic recordings, they should be required to provide the court with confirmation of their training, expertise and experience.

3) In keeping with the above recommendation, it is also recommended that TT practitioners who take the stand as expert witnesses to defend their TT product be paid as an expert witnesses and not, as is the current practice, as interpreters. Providing expert testimony is completely different from interpreting and should be compensated at a higher rate. If necessary a category for Expert TT Witnesses should be added to the Rule 13 schedule of expert witness fees. interpreters.

4) It would be advisable to include some kind of language to the effect that

the AOC will annually or periodically review interpreter fees with an eye to considering Cost-Of-Living increases when possible.
5) The proposal to create pilot programs and other methods of efficiently providing interpreter services is interesting and challenging. I suggest that one or more representatives of the interpreting community be included in the creation and oversight of such programs in order to ensure their compatibility with interpreter concerns and acceptability by the interpreters who will, in the end, carry them out.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2805

From: "Paul Van Cotthem" <vancotthem@att.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 12:53 PM
Subject: **TN Courts: Submit Comment on Proposed** Rules

Submitted on Thursday, June 14, 2012 - 12:52pm
Submitted by anonymous user: [74.179.8.18]
Submitted values are:

Your Name: Paul Van Cotthem
Your email address: vancotthem@att.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
As we all know, the job of an interpreter at the court is to translate accurately what the parts say. To do it correctly, the interpreter must dominate the languages utilized, have a good knowledge of the cultures involved and identify the educational level and social condition of the people participating. All this requires, good educational background, to dominate the languages involved, preparation, good memory, frequent training, but specially the desire to help others. Therefore, a reduction of the rates could affect some of the above mentioned characteristics, with a consequent damage to the quality of the interpretations.

With respect to a reduction of the travel expenses, we all know the frequent variations of the prices of, gasoline, tires, maintenance, insurance, etc., besides the risk that it takes to drive from one place to another, when one can be involved in accidents due to the imprudence of some drivers.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2807

From: "John M. Estill" <jmestill@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 1:28 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Thursday, June 14, 2012 - 1:27pm
Submitted by anonymous user: [98.27.217.103]
Submitted values are:

Your Name: John M. Estill
Your email address: jmestill@gmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
June 14, 2012

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Submit via web

Via USPS and electronically

Re: Docket No. M2012-01045-RL2-RL – (Filed: May 18,2012_
Comments on proposed changes to Rule 42 of the Tennessee Supreme Court

Dear Mr. Catalano:

I write as chair of the Advocacy Committee of NAJIT, the National Association of Judiciary Interpreters and Translators. NAJIT's mission is to promote quality services in the field of legal interpreting and translating. Our members play a critical role in ensuring due process, equal protection, and equal access for non-English or limited English proficient (LEP) individuals who interact with the judicial system.

NAJIT is the largest American organization of judiciary interpreters and translators. Our aims include: the promotion of professional standards of performance and integrity for court and legal interpreters and translators; wider recognition for the profession of judiciary interpreting and translating; and the enunciation of positions on matters affecting the advancement and interest of the profession of court and legal interpreting as a whole. NAJIT's advocacy committee is charged with monitoring developments relating to legal interpreting and translating and advocating for appropriate standards and procedures.

We note that many of the proposed modifications to Tennessee Supreme Court Rule 42, governing the appointment and compensation of court interpreters, have the effect of reducing and restricting the compensation paid to Tennessee interpreters. For example,

- Provision for a minimum appointment of two hours has been deleted.
- Payment for travel time has been reduced to half the current rate, and is permitted only with a burdensome requirement for prior motion to the court and approval by the AOC.
- Individual courts are permitted to set unacceptably low rates

- Compensation is capped for other-than-Spanish languages
- The Director of the AOC is directed to consider the state of the state's revenues before determining and paying compensation.
- No provision for payment in case of cancellation.

NAJIT is not a trade union, and we do not negotiate for our member's fees and salaries. We are an organization of professionals, officers of the courts in which we perform our services, and we must observe that policies such as those listed above will tend to drive down the quality of interpretation services available to the courts of Tennessee. Our members and our non-member colleagues will not be able to afford the substantial investment in time, money and effort needed to attain, perfect, and retain their interpreting skills if they are not fairly and adequately compensated. This, in turn, can only adversely affect the quality of justice afforded Tennessee's LEP defendants.

We note that parties are now to be permitted to contract separately for interpreter services. According to Canon 3, Rule 41, this represents a conflict of interest and an appearance of partiality on the part of the contracting interpreter. Additionally, inexperienced parties may not have the knowledge necessary to select competent service providers. Courts will have to be on guard against the inappropriate use of volunteer interpreters such as bilingual friends or relatives.

The revised rule has provision for half-day and full-day contracts, and for giving interpreter contractors preference. There is no apparent requirement that these contractor interpreters be credentialed in any way. This is an omission that must be corrected.

Thank you for the opportunity to express our concerns.

Very truly yours,

John M. Estill
Chair, NAJIT Advocacy Committee

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2808

From: "Cristina Lourido" <clourido@bellsouth.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 1:48 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 1:48pm
Submitted by anonymous user: [108.82.56.118]
Submitted values are:

Your Name: Cristina Lourido
Your email address: clourido@bellsouth.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I wish to commend the Supreme Court and the Tennessee AOC for their excellent work in ensuring linguistic access to justice through the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services.
Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I cannot agree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts.
Specifically, I am concerned about the following provisions:
1. The ommission of the 2-hour minimum payment for interpreters. The 2-hour minimum compensation was established based upon the intrinsicate nature of interpreter court-related work: It is unpredictable per se, interpreters have to be available with a due amount of flexibility, thus limiting them to engage in too many other tasks in one day or ahead of time, and consequently limiting the amount of hours of actual work, which translates into less income per day. Without this provision it will not be economically feasible for Tennessee's court interpreters to provide services in state courts, especially when their specialized training and high quality services can bring in much higher compensation in the private sector.
2. That no payment should be allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees. Again, travel time is the time that cannot be spent in fulfilling another assignment. An incentive to accept any job that might end up lasting less than an hour, without compenstion for travel time, would not be appealing. Also, court procedures would not be able to allow sufficient amount of time for an interpreter to go through all the administrative requirements, before rendering his/her services.
3. The ommission of the word "credentialed" in the proposed amendments will trigger situations seen in the past, allowing bilingual laypersons, who sometimes aren't even proficient in one of the two required languages to be called upon.
4. Keeping up with modern technology has always been something unavoidable in the working world, many times very welcomed. Nevertheless, caution should be placed in trying to replace in-court interpretation with remote audio and video systems, as these might only be seen as an auxiliary means for simple proceedings. Otherwise, this is as unrealistic as relying solely on automated translation. In-court interpreting already presents at times challenges for the interpreter, when the noise in the courtroom rises or the speaking parties are separated by some distance or, during heated deliberations, overlap their voices. Interpreters often have to wander, e.g. during, a trial, throughout the courtroom to catch the speaker's words.

Remote interpreting devices will add more interference and reduced sound perception. In addition, the benefit to be able to read the body language, a helpful tool to assist in grasping what is being said, will be nil.
5. Pilot programs might bring some benefits, if performed adequately. Particularly for remote areas with seldom cases where interpreters are needed. That means, credentialled interpreters in TN should be involved in carrying them out, as they will be testing them in situ, and will be able to assess their viability in the long run and wide spectrum of this particular region.
Something not covered by Rule 42, but prevalent in court-related matters, is the fact that transcription/translations seem to be carried out many times by bilingual laypersons, lacking often language skills and/or proficiency in one of the languages, oral and in writing. Maybe the Supreme Court could look into that matter, and find a satisfactory solution, especially, ruling that these should be given only interpreters with training and experience. This also applies to out-of-court interpretations between clients and their counsels, which often are accepted to be accomplished by family members, friends or come-alongs, but can involuntarily cause so much confusion and harm to all parties concerned. Too much is at stake.
I can foresee that competent and qualified interpreters, including myself, will want to, or will have to turn to more profitable job offers, and abandon court interpreting, if these proposed amendments are adopted It is my hope, though, that the Supreme Court will weigh the pros and cons of the proposed ruling, before implementing them.
Thank you for giving us the opportunity to comment on the proposed amendments before implementing them.

Respectfully,
Cristina Lourido
Translator/Conference Interpreter, M.A.
Spanish-German-English
TN Certified Court Interpreter (Spanish)
TN Registered Court Interpreter (German)

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2810

From: "Kathleen Morris" <Morris@KMorris.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 4:41 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 4:40pm
Submitted by anonymous user: [98.87.48.149]
Submitted values are:

Your Name: Kathleen Morris
Your email address: Morris@KMorris.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: As a criminal defense attorney who frequently represents Spanish-speaking indigent defendants, I am concerned that the proposed reductions in pay, including the reduced payment for travel time, will make it more difficult to retain the expert assistance required under the Sixth Amendment. In a profession of high demand, I fear that the result will be an exodus of highly qualified and experienced interpreters and an influx of beginners. Sadly, I will be unable to judge or trust whether my communications with clients are correctly translated if the pool of interpreters is diluted with inexperience borne of budget cuts.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2811

From: "John C. Osier" <lamerced@bellsouth.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 7:37 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, June 14, 2012 - 7:36pm
Submitted by anonymous user: [74.254.244.202]
Submitted values are:

Your Name: John C. Osier
Your email address: lamerced@bellsouth.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I am an AOC Certified Court Interpreter in Tennessee, I wish to applaud the Supreme Court and the Tennessee AOC for their excellent work in ensuring linguistic access to justice though the expansion of the number of courts, proceedings and litigants eligible for AOC-remunerated spoken language interpreter services.

Having been an AOC certified interpreter working in the TN state courts for more than eight years, I have seen many advancements in the quality of interpretation services provided in the TN state courts for LEP defendants. These advancements, in my opinion, are the results of RULES 41 & 42, along with Rule 13 (Compensation Guidelines), and the dedication of a developed skilled group of well trained professional court interpreters.

Without any doubt, if the AOC proposed changes are adopted, the advancements achieved in these last 10 years in Court Interpretation Services in TN will suffer greatly.

Qualified Certified and Registered Interpreters will not be financially able to serve the courts in TN under the proposed changes. The counties that will suffer the most are the smaller ones which will not be able to obtain the services of any qualified registered or certified interpreter, due to the lack of just compensation for a national recognized necessary professional service in the court system.

This above will also, without doubt, lead to more appeals, lawsuits, and ultimately turn-over's of verdicts in LEP cases, as the courts did not, or were not able due to the proposed changes to supply, certified or registered interpreters.

Unfortunately, the Proposed Amendments to Rule 42 also contain provisions with which I cannot agree since they almost certainly will reverse years of progress in the proper and continued use of competent and credentialed interpreters in Tennessee Courts.
Specifically, I am opposed to the following provisions:
1) That the 2-hour minimum payment for interpreters (previously appearing in Rule 13) has been omitted from the amended version of Rule 42. Rule 42 as Amended is intended to replace Rule 13 in its entirety. The previous provision for 2-hour minimum payment should therefore be added to Rule 42, just as it appears in Rule 13(4)(d)(6): "Interpreters shall be compensated for a minimum of two (2) hours per day when providing in-court interpretation." Without this provision it will not be economically feasible for Tennessee's court interpreters to provide services in state

courts, especially when their specialized training and high quality services can bring in much higher compensation in the private sector.
2) That no payment is allowed for travel time without a specific motion for such payment; and that such payment, if approved by the court, is limited to 50% of normal interpreting fees; and that the AOC can deny such payment even when the motion is approved by the court. [Here you can include your own reasons for not traveling without pay... "I personally would not travel to any court or location outside my own city without payment for my time. I could be earning good money during that time serving my local court or other clients. My time is my product – it needs to be compensated!" or "Travel to the court is part of the assignment. It should be paid the same as time in court.", etc etc.] It is unreasonable to suppose that interpreters will travel at all under these conditions, or that they have the time or training to present motions, or that there would even be time enough to approve motions both in the court and the AOC prior to travel. The entire portion of CS Rule 42 (7)(a) referring to the elimination of payment for travel time should be removed and replaced by the corresponding portion of Rule 13(d)(7) (with appropriate changes), i.e.: "Time spent traveling shall be compensated at the same rates provided for spoken foreign language interpreters in Section 7(a)."
3) That individual courts be allowed to set rates for interpreter services as long as they do not exceed the Rule 42 limitations. This can only result in courts (especially administrative staff) attempting to set unacceptably low fees and seek "lowest bidders" without concern for interpreters' competence. According to Rule 42, Section 3(c), Courts should use credentialed interpreters. Credentialed interpreters have spent a great deal of time, money and effort to earn and maintain their credentials through constant study, practice and ongoing professional development. They deserve the rates that have, up to now, been the norm, and which, although not always comparable with rates available in the private sector, have been acceptable for the level of professionalism required in legal settings. The portion of the proposed amendments referring to courts setting their own rates should be removed!
4) That "parties" be allowed to arrange for interpreter services [Amended Rule 42 §4 (a)]. It is a conflict of interest and presents an appearance of partiality for a court interpreter to be chosen by a party to a case (and especially if directly paid by that party). (Rule 41, Canon 3). Moreover, more often than not, "parties" do not have the information or knowledge needed to identify and select competent, credentialed interpreters. Allowing a "party" to arrange for his or her interpreter is tantamount to asking for family members, bilingual friends, and other non-professional individuals to work in specialized legal and quasi-legal settings. The word "party" should be removed from Amended Rule 42 §4 (a).
5) That payment for interpreting services in Languages other then Spanish (LOTS) is capped at $75/hr. In order to secure the services of competent LOTS interpreters, which may entail paying higher fees and/or bringing interpreters in from other areas, the payment rate should be left to the discretion of the requesting court. This part of Section 7(a) should be replaced by the current language in Rule 13 (4)(d)(3): "If the court finds that these rates are inadequate to secure the services of a qualified interpreter in a language other than Spanish, the court shall make written findings regarding such inadequacy and determine a reasonable rate for a qualified interpreter."
6) I am also concerned by the use of the phrase: " and giving due consideration to state revenues" in 7(g)(1) and 7(j)(2): "After such examination and audit, and giving due consideration to state revenues, the

director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof." The compensation for interpreters should not be subject to the condition of state revenues. Competent interpreter services are the only way the justice system can comply with the constitutional rights of LEP litigants to equal access to justice. Payment for such professional services is not optional nor should the amount and certainty of payment be put into doubt in this way. This phrase should be removed from both subsections.

7) Section 7(h) of Amended Rule 42 mentions that the AOC Director "may contract with interpreters for half day and full day rates. If the AOC director does so, the courts shall use those contracted interpreters unless those interpreters are unavailable". There is no mention of "credentialed" interpreters. Since it is unlikely that such contracts would be made with interpreters of languages for which there is no credential, the word "credentialed" should be inserted in order to ensure that the interpreters contracted and used obligatorily by courts are always credentialed interpreters.

OTHER RECOMENDATIONS

Here are a few more suggestions for inclusion in your letter. They do not appear in the Proposed Amendments but we might as well as take advantage of a moment when changes are being made to lobby for these additional changes:

In addition to the above, I would like to propose the inclusion of the following provisions:

1) Cancelation policy: If a proceeding or event for which an interpreter (or interpreters) has (have) been scheduled should be canceled, the scheduled interpreter(s) shall be entitled to compensation as follows: With more than 48 hours advance cancellation notice: No payment. With 48 hours or less advance cancellation notice: For a proceeding scheduled to last less than ½ day (4 hours), payment of the 2-hour minimum fee. For proceedings scheduled to last one full day, payment of 4 hours. For proceedings scheduled to last more than 2 days, one full day, payment of 8 hours.

Rationale: Interpreters are subject to the scheduling vagaries of the courts in which they work. Unlike attorneys and other court officers and personnel, interpreters who have reserved the scheduled time and refused other assignments in order to serve the court do not have any other work they can immediately undertake to replace the income lost through cancellation of the assignment. This causes interpreters to be reluctant to accept lengthy or doubtful assignments (especially for trials) causing difficulties for courts. The situation can be remedied by providing some compensation, albeit reduced, in the event of cancellation, allowing the interpreter at least a brief window to try to find another assignment.

2) Transcription/Translation (TT) of forensic recordings: The process of transcribing and translating recorded material that may be used as evidence in legal proceedings is a complex and specialized undertaking. Since the product of such an undertaking must be acceptable as evidence, the TT practitioner should adhere to all the approved protocols, procedures and ethics that must be observed in the performance of TT work. In consequence, TT work should only be performed by credentialed interpreters and/or translators who have had specific training and experience in this field, and who are able to defend their product credibly as expert witnesses in court proceedings. For this reason, it is recommended that Rule 42 include a provision that any person assigned to provide the service of Transcription and Translation of forensic recordings be required to provide a showing of their training, expertise and experience prior to being assigned such work.

3) In keeping with the above recommendation, it is also recommended that TT practitioners who take the stand as expert witnesses to defend their TT

product be paid in accordance with the Rule 13 schedule of expert witness fees rather than at the rates for interpreters. Expert testimony is completely different from interpreting and should be compensated at a higher rate.
4) The proposal to create pilot programs and other methods of efficiently providing interpreter services is interesting and challenging. I suggest that one or more representatives of the interpreting community be included in the creation and oversight of such programs in order to ensure their compatibility with interpreter concerns and acceptability to the interpreters who will, in the end, carry them out.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2813

From: "Carmen G Molina" <mln_crmn@yahoo.cim>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 9:15 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Thursday, June 14, 2012 - 9:14pm
Submitted by anonymous user: [98.66.8.201]
Submitted values are:

Your Name: Carmen G Molina
Your email address: mln_crmn@yahoo.cim
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
First of all, I wish to thank you for the opportunity we have been given to express our opinions regarding the Proposed Amendments to Rule 42 for Interpreters.
I emphatically agree with the comments of the majority of my colleagues; that some of the proposals for Rule 42 are not in the best interest for the interpreters. I am concerned that some of the rules, depending on how they are interpreted, can pose a serious decrease in our compensation. I hope that serious consideration is given to all points, especially some of the wording, as already addressed previously by others.

It seems that the issue, from the Interpreter's point of view, to be a selfish one; however, if you would look at it from our perspective: we as interpreters have chosen a profession unlike other professions. We, in Tennessee, do not have the advantage of having schools with programs that train us for this field. We have to seek out training and resources to train ourselves. Although I have to say that the AOC and TAPIT have done a lot to help us in every way they can; with providing training, sharing resources, etc. However, it all comes at a great cost, especially with the travel and lodging costs. How do we pay for these expenses?

We want to earn a living at something that we love, that is fulfilling and, that we are passionate about in addition to providing a fundamental service. Our profession is not like other professions. As interpreters, very few people are able to find full-time interpreting employment with benefits. We are entitled to be compensated for our skills and availability. Some have part-time jobs, and others have small businesses to help supplement income. Those who have part-time jobs and have to juggle 'keeping' a job while trying to integrate and develop reliable income through interpretation assignments, and also to be available to the courts. Can you imagine having a job, part-time or otherwise, asking to leave work to go to another job? Would you keep someone on payroll under those conditions? Of course, most employers are not willing to have their employees leaving on a 'whim.' At the same time, it is very unpredictable when and where we will be asked to interpret. If we want to work for the legal system, specifically the TN court system, we have to be available, often, on short notice. Yet, sometimes there are so many people asking for our services that we have to turn down assignments. Then there are times when weeks or months go by that no one calls. It is feast or famine. If we commit to an assignment we may have turn down other assignments. So a cancellation without compensation is more than just a cancellation. The only thing that we have, like lawyers and CPAs and other skilled professionals who rely on the public for their living, is only our skills and time that make us marketable. Most interpreters do not have a

full-time or even a part-time job. Therefore, we do not have insurance, unless we purchase it on our own, (which as you know is quite expensive) or we are fortunate enough to have a spouse or partner that will support us through the lean times. What is paid to interpreters seems like a lot, until these things are taken into account. I don't think that the AOC realizes that we do not interpret every day. At least for me, I interpret an average of 4 to 5 times a week, as a registered interpreter, most of it in nearby Municipal Courts. I am assuming that I will have more assignments when I am certified, but I wonder how others who have to drive long distances will fare. With the AOC proposing to cut the wages, travel fees and other changes affecting compensation for interpreters, I can understand why some are saying that they cannot afford to stay in this field.

That is a shame, because they have put countless hours and money into honing and improving their skills. It is also a shame because it puts the courts in a difficult position too. They still have to provide for people with Limited English Proficiency, putting LEPs at risk by having interpreters who, for less money, and who are possibly less qualified to do the work that needs to be done. Yes, unfortunately, this is a question of money, not of greed but fair compensation. But ultimately, whom or what is being sacrificed in the long run?

Respectfully submitted,
Carmen G Molina

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2814

From: "Elena H. Ottaway - Certified Spanish Interpreter" <elenaottaway@att.net>
To: <janice.rawls@tncourts.gov>
Date: 6/14/2012 9:47 PM
Subject: **TN Courts: Submit Comment** on Proposed Rules

Submitted on Thursday, June 14, 2012 - 9:46pm
Submitted by anonymous user: [74.179.52.55]
Submitted values are:

Your Name: Elena H. Ottaway - Certified Spanish Interpreter
Your email address: elenaottaway@att.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:

Dear Mr. Catalano:
I am an Interpreter in Tennessee, certified by the TN AOC and I wish to thank the Supreme Court and the Tennessee AOC for their excellent work on linguistic access to justice through the AOC-remunerated interpreter services.
However, I disagree with the Proposed Amendments to Rule 42. Specifically, I am opposed to the following provisions:
1) That the 2-hour minimum payment for interpreters has been omitted.
2) That no payment is allowed for travel time.
3) That individual courts be allowed to set rates for interpreter services as long as they do not exceed the Rule 42 limitations.This can only result in courts attempting to set unacceptably low fees and seek "lowest bidders" without concern for interpreters' competence.
4) That "parties" be allowed to arrange for interpreter services. It is a conflict of interest and presents an appearance of partiality for a court interpreter to be chosen by a party to a case. The word "party" should be removed from Amended Rule 42 -4(a).
5) I am also concerned by the use of the phrase: "and giving due consideration to state revenues" in 7(g) (1) and 7 (j((2). The compensation for interpreters should not be subject to the condition of the state revenues. Like all sensible business persons, interpreters will not accept work if they think their work might not be fully compensated.
Our family members would also appreciate your careful consideration to these changes since we depend on this income to provide for them.
Sincerely,
Elena H. Ottaway

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2815

From: "Marcella Alohalani Boido" <boido@hawaii.edu>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 4:25 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 4:24am
Submitted by anonymous user: [72.234.185.123]
Submitted values are:

Your Name: Marcella Alohalani Boido
Your email address: boido@hawaii.edu
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Marcella Alohalani Boido, M. A.
Hawaii State Judiciary Certified Court Interpreter, Spanish and English
2733 Kaaha Street A5
Honolulu, Hawaii 96826-4736
Telephone 808/946-2558
E-mail: boido@hawaii.edu
June 14, 2012
Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, Tennessee 37219-1407

Sent via link on
http://www.tncourts.gov/courts/court-rules/proposed-rules/submit-comment-proposed-rules

Re: Docket # M2012-01045-RL2-RL

I am a certified court interpreter in Hawaii. My Goodrich ancestors moved to Tennessee from Virginia in the 1700s. My ancestor, Dr. Benjamin Briggs Goodrich, M.D., lived in Tennessee and practiced as a physician in Nashville in the 1800s. Given this family history, I feel a connection with Tennessee in general, and with my court interpreter colleagues in particular.

Currently I am the President of Hawaii Interpreter Action Network (HIAN), a professional association for interpreters and translators which I co-founded. Previously I also co-founded Hawaii Interpreter and Translator Association (HITA). In HITA I served as the Chair of the Committee on Client Education, Ethics, and Fees, as well as Government Liaison Officer.

In the last few years Tennessee has made positive changes towards providing effective language access in the courts. Now, however, there is a regressive movement. These regressive movements in the courts seem to be largely inspired by cost concerns and anti-immigrant sentiment, but disregard the guidance given by the U. S. Department of Justice.

The Proposed Amendments to Rule 42 are such a regressive movement. They seek to undermine the court interpreter certification program through various non-standard and dysfunctional payment practices. If the goal is to drive competent and ethical interpreters out of the system, and perhaps even out of Tennessee, that goal will be achieved. What will happen to the imagined savings when the probably inevitable major lawsuit against the courts is filed, and Tennessee loses, or when Tennessee must spend many hours dealing

with a DOJ investigation?

Respectfully, I suggest:

1. Certified interpreters should be part of Tennessee's decision-making and consultation process on all court interpreter policy and program matters. Interpreter expertise and representation are indispensible.
2. Work should be offered first to the most highly credentialed interpreter.
3. Any interpreters used in the courts, either in person or via telephone or video interpreting, must meet the standards of Tennessee's certification and credentialing program.
4. Interpreters should be contracted, appointed, and paid by the court. Anything else creates a conflict of interest situation. That is especially true at the witness stand.
5. Tennessee residents should have priority in work assignments, except in cases where an interpreter is needed in a Language of Lesser Diffusion, and an interpreter with credentials higher than those held by any Tennessee resident is available.
6. All states need to have a pool of certified and credentialed interpreters and translators. Giving the work to to out-of-state and even out-of-country interpreters and translators only serves to undermine and eventually destroy the standards and the pool of professionals needed by the state.
7. Minimum rates for interpreter services should be set on a state-wide basis. These rates should be adjusted upward annually for cost-of-living increases.
8. There are two standard ways of paying interpreters: with a 2-hour minimum, or on the half-day/full-day system. Pick one.
9. All interpreter payment schedules need to include payment for late cancellations and appearances. The more difficult it is for an interpreter to secure an alternative assignment, the longer the advance period for late cancellation payments should be.
10. Pay fairly for travel time—or expect to do without interpreter services. (The Hawaii Judiciary ignored HIAN feedback on this point, with the completely predictable result that some courts cannot obtain all the interpreter services they need.
11. If a payment cap is going to be created, it needs to be set much higher than the proposed $75/hr., and the cap should be adjusted upward according to the cost of living and other considerations. Provision for upward exceptions needs to be made. Interpreters in some languages, such as Japanese, routinely command $100—$120/hour. If the court needs them, it needs to be able to pay for them.
12. Proposed caps on interpreter pay per day are only permissible if the interpreter can leave at his or her discretion after having completed the time period for which the interpreter was contracted, regardless of any further need for interpreter services that day.
13. Fatigue is the enemy of accurate interpretation. If an interpreter has worked for eight hours, and an interpreter is still needed, a fresh interpreter should be contracted for the rest of the work day. This is especially important at trial, at the witness stand, or when an interpreter has been working alone.
14. Team interpreting should be used for trials, evidentiary hearings, and at the witness stand.
15. In setting translation rates, make use of the U. S. Department of State's rate schedule, consulting it in full (for all language types: alphabet systems, syllabary systems, languages written with ideograms such as Chinese and Japanese, etc.) Have a minimum payment for one page, or expect to do without any short translations.

16. Tennessee courts need to be conceptually clear on the difference between interpreter and translator services, versus expert witness services. When a physician or psychologist testifies as an expert witness, they are paid expert witness fees, not for an office visit. Expert witnesses spend a great deal of time preparing before they testify, and their fees need to reflect that reality. Courts already know this—now that knowledge should be applied to the interpretation and translation professions.

With best wishes for meaningful language access in the Tennessee courts, I remain,

Marcella Alohalani Boido, M. A.

cc: Tennessee Association of Professional Interpreters & Translators
American Translators Association, Interpreter Division
Association of Translators &Interpreters of Florida, Inc. (ATIF)
NAJIT
HIAN
HITA
Nevada Interpreters & Translators Association
Washington Interpreter Forum

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2816

From: "David Hanich" <dhanich@juno.com>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 9:10 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 9:10am
Submitted by anonymous user: [71.28.197.222]
Submitted values are:

Your Name: David Hanich
Your email address: dhanich@juno.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
In July of 2002 I traveled from my home in Lexington, KY to Nashville, TN to attend the Tennessee State Court Interpreter Ethics and Skillbuilding Workshop, since there was at that time no program here in Kentucky. Then I became a Registered Tennessee Court Interpreter in Spanish/English, although I later became registered through the Kentucky program, and met the requirements for becoming a Kentucky AOC Certified Court Interpreter, after having invested considerable time and money in study, research materials, dictionaries, training and workshop fees, attending conferences, etc. I feel indebted to Tennessee's enlightened approach to meeting the Constitutionally guaranteed right to understand difficult court proceedings by means of a trained, credentialed court interpreter for Limited English Proficient individuals. Contrary to much popular opinion, this practice also benefits the citizens of the US, because investigations of wrongdoing also frequently include interviews and court hearings of non-English speaking witnesses, victims or defendants in order to fully protect the public from criminal activity. What if complicated investigations into criminal activity could not be carried out because of language barriers?
Attempts by Tennessee to drastically slash compensation for professionally educated, trained Court Interpreters will undoubtedly damage the pursuit of justice, because competent interpreters cannot accept such unreasonable conditions proposed in Tennessee, such as eliminating the 2-hour minimum compensation, eliminating travel compensation and slashing the pay rate. I cannot work under such draconian conditions, and neither can reliable, professional colleagues in Tennessee. This will precipitate a crisis in the State of Tennessee. The United States Department of Justice will undoubtedly have to investigate this unacceptable situation, with heavy consequences for Tennessee's reputation and budget, which would be a major blow. A careful treatment of this situation is urgently needed, with participation of those most directly knowledgeable, namely, the certified court interpreters.
Tennessee's Certified Court Interpreters deserve to be commended, respected and protected for their untiring labors that have greatly benefitted the judicial system.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2817

From: "A. Gregory Ramos" <agramos@nprjlaw.com>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 12:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 12:01pm
Submitted by anonymous user: [66.83.55.6]
Submitted values are:

Your Name: A. Gregory Ramos
Your email address: agramos@nprjlaw.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
I am an attorney who practices in Nashville, TN. I am respectfully submiting the following summary of my concerns regarding the proposed rule change in question:
1) no minimum payment of two hours
2) no payment of travel time
3) individual courts can set rates lower than the current court interpreter rates
4) rates for languages other than Spanish capped at $75/hour
5) no mention of a cancelation policy
6) daily maximum rate (i.e. you could have to work for free on an extended hearing or long day)
7) no provision for cost-of-living increases

Thanks for considering my summary of concerns regarding the proposed rule change. Gregg Ramos

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2821

From: "Ashley Burns" <ashleyburns@jis.nashville.org>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 12:36 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Friday, June 15, 2012 - 12:36pm
Submitted by anonymous user: [170.190.198.108]
Submitted values are:

Your Name: Ashley Burns
Your email address: ashleyburns@jis.nashville.org
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: In to be able to get quality interpreter services for Court Staff interpreters should be paid the time that the interpreters are requesting, as long as it is resonable compared to other interpreters rates. Interpreters that speak languages other than spanish should get paid more, it must be across the board of what interpreters get paid, the interpreter should get paid if use their vechile to and from work (others companies employees get reimbersed if use their vechile)

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2822

From: "Ralph Noyes" <ralph_noyes@hotmail.com>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 12:51 PM
Subject: **TN Courts: Submit Comment on Proposed Rules**

Submitted on Friday, June 15, 2012 - 12:50pm
Submitted by anonymous user: [75.65.12.133]
Submitted values are:

Your Name: Ralph Noyes
Your email address: ralph_noyes@hotmail.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL-RL
Your public comments:
I'm a lawyer in general practice in Memphis and surrounding areas who mostly represents Spanish-speakers, especially, but not entirely, immigrants. For more than one American out of ten, English is not a first language. For one in a hundred, English is entirely foreign to them.

I assume that anyone reading this comment is familiar with Title VI of the Civil Rights Act of 1964 and with Executive Order 13166, and the guidances that have been issued by the Civil Rights Division of the US Department of Justice in furtherance thereof.

Tennessee has never acquiesced to the fundamental, heavily emphasized point made in the guidances that the cost of providing interpreters at EVERY stage of the police, judicial, probation, and penal process should be borne by the GOVERNMENT, and not the individual requiring the intepreter's services. I see no change in the proposed rule 42, inasmuch as the continual references to "indigency" seem to contradict the position taken by the federal government.

For the past several decades defendants in Tennessee have been forced to pay for interpreters as part of their court costs under pain of imprisonment. That this has not been litigated YET is a reflection of the generally good relations attorneys have had with courts and court clerks -- NOT on the legality of the practice.

It is utterly illegal for the state of Tennessee to require LEP defendants in criminal proceedings to pay for interpreters. So says the United States Government, repeatedly and unequivocally.

With specific reference to the proposed changes to Rule 42 --

Section 2, (10) Court Proceedings -- I applaud the new requirement that interpeters be present at bond hearings. This needs to be enforced vigorously, as it is very easy for many individuals to presume that the person who cannot communicate in English is innately beneath the law. That presumption is excruiatingly palpable in many, many instances.Some magistrates just don't like people who speak Spanish.

Section 4, Procedures, (a) -- Recognizing the wide range of circumstances of courts in our state, ranging from urban metropolitan areas to remote rural areas, it is no doubt necessary to allow various jurisdictions to experiment with various approaches to meeting the Due Process requirements for the provision of interpreters. But those approaches require the review and approval of central authorities, and should not be left to the unfettered

discretion of courts, especially in remote, rural areas. I have seen too many atrocities in the intepreter process to trust those courts to conduct the process properly without supervision from Nashville.I will address the problem of uncredentialed interpreters below.

4 (b) I heartily approve of the requirement that the waiver of intepreter must be conducted in open court, after explanation by a qualified interpreter, after consultation with counsel, and with the Court's approval. These safeguards are SO necessary, especially in some rural areas.

Commentary 4 (a) I have had bad experiences with local courts, in Memphis even, with courts selecting unqualified interpreters, some of whom were friends of the judge or her staff. I could cite specific and very troubling instances in one specific Criminal Court in Memphis.

Again, supervision is necessary. Not every judge or court administrator cares one WHIT about the constitutional rights of persons who do not speak English.

Certain judges in the recent past have gone so far as to hold defendants in contempt and jailed them for being unable to speak English. I know this occurred repeatedly some years ago in a General Sessions court in the suburbs of Nashville.

Section 7 Cost of Interpeter Services -- Indigency should not be a requirement for the provision of an interpeter. Again, the United States Government has made it very clear that this is absolutely unlawful. Paying for the interpeter is the STATE's responsibility.

Section 7 (a) Rates of Compensation -- I find it troubling that Spanish intepreters are singled out for lower rates of compensation than other intepreters. This may be a function of market forces, but it may be more appropriate to suggest a a lower rate for ALL languages that share Indo-European roots with English.

The failure to compensate intepreters with a two-hour minimum is also troubling. That should at least be the recommended practice, though one can imagine situations where that should not be necessary.

Fixing parking compensation at a maximum of $10 is reasonable on its face, but we live in a time where inflationary forces may arise suddenly, like a wildfire, and prices tend to rise far more rapidly than court rules are reformed. Perhaps the rule should state that $10 is a reasonable maximum as of mid-2012, and that adjustments should be made for inflation.

I am aware of personal relationships, both amicable and hostile, between certain judges and certain interpreters. The discretion of judges to limit compensation in a discriminatory manner, irrespective of the foreign language involved, is ripe for abuse, at least in Memphis.

Moreover, the employment of non-credentialed interpreters should be prohibited completely. Speaking as an attorney who is fully bilingual, there is a vast difference between being bilingual and being a professional legal interpeter. While it may be useful and economical to allow an uncredentialed person to tell a defendant when his next court date is, it is unconscionable to allow anyone who is not at least a Registered Interpreter to interpret witness testimony or a plea colloquy.

In particular, there is a problem in rural areas with uncredentialed individuals conducting all stages of interpretation. Often that individual is the owner of the local Mexican restaurant, and may also be in a position to steer defendants towards certain specific attorneys. And, the quality of interpretation is often ABYSMAL. More than once I have had to correct interpeters. I hold my tongue far more often, when the error is immaterial.

This is a good-ol'-boy system that has arisen, in good faith initially and out of convenience, no doubt, but in practice it does not square up to the standards for Due Process of Law.

The apparent lack of preference for Certified Intepreters over Registered Interpeters is also troubling, especially when complex proceedings are involved that require lengthy simultaneous intepretation.

Interpreting is strenuous work. Rule 42 should make a provision to allow any interpreter a reasonable break every hour -- perhaps ten minutes. Many courts, to their credit, recognize this issue already and act appropriately.

The prohibition on compensating interpreters for travel time is one of the most troubling provisions of the new rule. There are, to my knowledge, five and only five Certified Interpreters -- in Spanish -- in all of West Tennessee.

To ask them to travel for up to three hours each way to a court hearing is unconscionable, and will simply make such intepreters unavailable -- and once again the defendant will be thrown upon the mercies of Juan Gonzales, the owner of the county's Mexican restaurant.

An interpreter who will not travel for free for a great distance is an interpreter who simply will not make his or her services available.This provision DESPERATELY needs re-thinking.

Finally, I would represent that the processes in place in some instances -- such as in Shelby County General Sessions Criminal Court -- do not require intepreters to remain available for the hours that court is in session. Certain interpreters -- uncredentialed, I might add -- show up an hour late and announce that they are departing an hour early, whether a defendant requires their services or not. This is unacceptable.

Moreover, it has become a common practice that certain attorneys -- the Public Defender more than anyone else -- will hijack an intepreter for his or her private communication with a client, instead of hiring her own private interpreter to do HER work. This is an unconscionable waste of interpreters' time, and it needs to be prohibited.

These intepreters are the COURTS' interpeters, and no one else's.This needs to be made very clear.

Moreover, in situations where multiple courts share a limited number of interpreters, it is the practice, occasionally, of certain judges to hijack the intepreter and make him or her remain in his courtroom, unavailable to assist in the other half-dozen courts where the interpreter is needed. Some judges are extraordinarily inconsiderate of the time of defendants, attorneys, and their fellow judges.

I realize that I've touched on many subjects, some of which may be politically untouchable, some of which may be outside the scope of this proposed rule change, and some of which may simply be my mistaken personal perspective on these matters.

The issues concerning court interpreters for LEPs need to be addressed conscientiously, with due deliberation and focused attention. There are problems here, bad problems with court interpreters in Tennessee, and this opportunity to correct as many of these problems as is possible should not be missed.

Please do your best to make the court interpretation process in Tennessee work better.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2824

From: "Judith Kenigson Kristy" <judithk@bellsouth.net>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 12:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 12:49pm
Submitted by anonymous user: [74.179.229.254]
Submitted values are:

Your Name: Judith Kenigson Kristy
Your email address: judithk@bellsouth.net
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
Mr. Michael W. Catalano, Clerk
100 Supreme Court Building
40 1 Seventh Avenue North
Nashville, TN 372 19-1407

Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL

Let me begin by thanking you for this opportunity to comment on the proposed amendments to Supreme Court Rule 42.

I write as a Federal and Tennessee State Certified Court Interpreter, to lend my voice to the many comments already received regarding the proposed amendments to SC Rule 42. Many achievements in promoting and expanding the credentialing and prioritized use of competent interpreters in Tennessee's courts do great credit to the efforts of the Supreme Court and the TN AOC to provide constitutionally guaranteed access to justice for LEP individuals, and support for the diverse courts that serve them.

During my 20 years serving the courts as an interpreter and 40 years working as a translator, I have had the pleasure of watching translation and interpreting (T&I) services in North America grow in quantity and quality as governments, courts, healthcare providers, businesses and others realize the importance of professional, rather than amateur, services in this field.

As a former translator for Mexican President Lopez Portillo and for the United Nations Industrial Development Organization in Mexico City, I sought to continue my professional activities in Tennessee when I moved here in the 1980s. At that time, my work mainly consisted of translating for corporations and government entities. There were NO professional interpreters in the courts. My wake-up call came in 1987 when I was sent by an agency to a Franklin Court to serve as an interpreter in a serious case – rape and kidnapping – involving a Spanish-speaking defendant. In spite of my already long career as a translator (written materials only), I had never done any interpreting and had no idea what a court interpreter was supposed to do... and the court didn't either! Luckily the defendant did not suffer from my ignorance – he was acquitted because of flaws in the prosecution's case – but I came away from that experience shaken and chastened. What would have happened to that poor man, happily proven innocent, if the outcome had depended on me and my compete lack of training to accurately, completely and ethically convey his story to the jury? Because of that experience, I immediately started to educate myself in

interpreting skills and passed the oral Federal Court exam in 1991. There was no training for court interpreters in Tennessee at that time (much less a credentialing program!) so my colleague, Marvyn Bacigalupo-Tipps and I had to invent our own. We learned a great deal! We learned how hard this job is and what a high level of expertise a person must have to perform it. This is evidenced by the fact that interpreter credentialing exams (both phases) typically have passing rates varying from 4% to 15%.

Since then I have gone on to immerse myself in professional T&I activities, joining the National Association of Judiciary Interpreters and Translators (NAJIT) in 1989, where I served as a Director and Treasurer for 6 years, and later co-founding with Dr. Bacigalupo-Tipps the Tennessee Association of Professional Interpreters and Translators (TAPIT). Our passion for supporting and promoting excellence in translating and interpreting skills and ethics found expression in the many training and advocacy activities TAPIT carries out for the benefit of both professional linguists and Tennessee's multilingual community. It is in this spirit that I write to you.

The Supreme Court and TN AOC are to be commended for amending SC Rule 42 to expand the events for which the AOC will pay interpreters, in compliance with Title VI requirements. At the same time, the proposed amendments contain many provisions that will have the opposite effect -- that of making language services more difficult for courts to obtain by alienating current interpreters and causing potential candidates for credentialing to turn to other careers.

Specifically, all the provisions that speak to the reduction and capping of fees, and an increase in paper-work and uncertainty as to assignment availability and payment will likely cause the already small pool Tennessee's credentialed court interpreters to seek a more secure and profitable source of income elsewhere.

There are three main amendments that affect fees: the omission of a two-hour minimum fee for in-court interpreting, the elimination or 50% limit of travel-time fees, and the caps on rates and daily earnings. In addition, there are some carry-overs from Rule 13 4(d) that could affect pay rates, such as the provisions stating that courts may set their own rates as long as they do not exceed the maximum rates stated in Rule 42.

The combination of eliminating the two-hour minimum fee and payment of travel time at the usual interpreting rate is a non-starter. These are the mechanisms that have allowed interpreters to at least come close to earning a living interpreting in court. Their elimination is tantamount to asking interpreters to, from one day to the next, suffer something like a 50% cut in pay (or more for those who travel a great deal), overnight. It is hard to imagine that anyone would try to convince their service providers to accept such a massive cut in one blow, but that is precisely what the proposed amendments are doing.

Interpreters work in environments external to their homes or offices, thus there is no interpreting assignment that does not require some travel. Outside of Tennessee's four major urban areas, and even sometimes within those areas, travel can be extensive. Most of Tennessee's credentialed interpreters tend to be concentrated in and around urban areas, making outlying courts dependent on securing interpreters who can and will travel. The elimination of travel pay, or even payment at 50%, will cause those

interpreters to refuse all assignments involving travel and leave those courts without competent interpreting services. The courts, the interpreters and the LEP populations will all suffer.

The part of the proposed amendments that concerns obtaining pre-approved travel compensation by motions and pre-approval is problematic. First because there is seldom time to get pre-approval for interpreter services prior to an assignment. Second because the idea of submitting motions to the court is alien to interpreters. Third, because it just creates more bureaucratic paperwork to plague interpreters, the courts and the AOC as well. And fourth, because it is limits the compensation so obtained to 50% of the interpreting rate. This rate of pay is unacceptable. An interpreter's time is worth the same in the car as it is in the courtroom – it's all just time and our time is our product. No one will travel when they can earn twice as much by accepting only nearby assignments.

Regarding the two-hour minimum fee: The majority of hearings are not long. The two-hour minimum fee makes it possible for an interpreter to earn a fairly low but up-to-now acceptable amount when covering such hearings. Considering that an interpreter cannot know beforehand the length of a hearing, nor the time her case(s) will be called (scheduling personnel rarely know this themselves and so are not willing to make a firm commitment), the interpreter cannot usually schedule any other assignment during the morning or afternoon in which the assignment is to take place. This means that normally an interpreter is limited to accepting a maximum of two assignments a day (excepting trials and long evidentiary hearings, which are not a daily event). Unlike lawyers, investigators and other experts, interpreters do not usually have additional on-going work they can return to at the office when a hearing finishes early or is canceled. Now, supposing that an interpreter accepts one assignment in the morning and one in the afternoon, and each is over in 30 minutes; then without the two-hour minimum, i.e. billing only the minutes she is in court, that highly trained professional could end up earning less than $50 for the whole day. Less than a waiter at Burger King. (And, unlike the interpreter, the waiter at least has guaranteed work every day.) It's plainly unacceptable.

In short, the provisions in the proposed amendments to Rule 42 touching on travel time and the two-hour minimum fee should be changed back to the language currently in Rule 13.

Turning to the caps on fees, there are two considerations: one is the cap on fees for interpreters of languages other than Spanish (LOTS), and the other is the maximum amount an interpreter can bill for one day's work, equivalent to 10 hours' fee. The cap of $75/hr. for LOTS interpreters is unrealistic. To put it mildly, credentialed, or even just trained LOTS interpreters are scarcer than hen's teeth. It is likely that they will have to be brought in from outside the court's area or even outside the state. If they are court-worthy, they will be expensive -- the law of supply and demand governs this. Courts should be able to pay them more if necessary.

In terms of a cap on a day's fees, this, too, is unrealistic. Interpreters in trials or other long proceedings, or who interpret for attorney-client conferences after hours, or who have to travel long hours to and from a given court, may well end up working for more than 10 hours in a day, and these are not circumstances that can be pre-approved. Particularly in the case of trials, the interpreter cannot simply get up and leave when the 10 hour period is over. Currently interpreters are being denied payment

for extra hours they have already worked. Now that the rule is being amended, there is no reason why it should not be amended to allow courts to approve, after the fact, amounts in excess of the 10-hour limit when necessary. In fact, in my opinion, courts should be allowed to approve rates that exceed the so-called "maximum hourly rates" as well, if they need to obtain the services of an interpreter with particular skills or extensive experience. This could be the case in very high-stakes cases like death-penalty cases – fees for attorneys can vary in this way, why not the same for interpreters? I suggest removing all the "maximum" rates and caps and/or making it easier for individual courts to override them whether before or after the interpreted event.

Which brings me to the subject of courts' autonomy in deciding the rates they will pay. While the proposed amendments deny the courts the power to independently authorize fees higher than the caps, the do allow them to pay less if they choose. [Section 4: courts may set their own rates as long as they do not exceed the maximum rates established in section 7(a).] Although this apparently has always been the case, it is a bad idea. In these fiscally challenged times, courts may well decide to set very low rates and the result will be that the only interpreters they can hire will be of very low quality, since competent, credentialed interpreters will refuse the low rates and thus will not be "reasonably available". This smacks of a return to the "bad old days" when bilingual janitors or ethnic restaurant employees were considered "good enough" to work in court. The court has a vested interest in avoiding appeals or other costly outcomes based on poor interpreter performance. Consider the "Alfonzo" case in Florida where an incompetent interpreter caused a man to inadvertently plead to very serious charges he did not understand. After the ensuing scandal died down and the plea was vacated, the court realized that it might now have to review and perhaps retry the 5,000 cases in which this interpreter had worked during the previous 9 years.

Related to the above areas in which the proposed amendments threaten the availability of competent, credentialed interpreters in the courts, is the lack of a cancellation policy. As mentioned above, the interpreter's ability to earn a living depends on being compensated at reasonable rates for work performed, including travel to such work. What happens when the assignment is canceled? Since Tennessee has no cancellation policy for court interpreters, the interpreter is left with no income and no ability to replace the income he would have received from the assignment. Typically, committing to interpret in a given court or proceeding means that the interpreter must reserve a period of time and thus refuse any other assignment during that period. When the assignment is canceled at the last minute, there is no way to get another assignment on such short notice. The longer the time reserved (multi-day trials), the greater the loss. I suggest the following cancellation policy (based on the one currently in effect in Maryland): If cancellation notice is given 48 hours or more in advance of the event, no pay is provided; if given with less than 48 hours notice, payment is provided as follows: for events scheduled to last up to one-half day (4 hours), payment of the minimum 2-hour fee; for events scheduled to last up more than 4 hours and up to 8 hours, payment of 4 hrs; for events scheduled to last more than one day, payment of 8 hours. This would give interpreters an incentive to accept long assignments which they currently avoid, and if they cancel, to have a replacement of some of the income lost and time to try to find a new assignment.

Beyond these suggestions related to basic compensation, there are a few other matters in the proposed amendments that bear changing. One is the inclusion of "parties" among the people who may arrange for interpreter services. This is a problem for interpreters, both because it creates the possibility of conflict of interest and appearance of a partiality in the interpreter-interpretee relationship vis-à-vis other participants in the case, and because it creates a lack of uniform standards in the courts. With this language, a party can bring anyone they want into court as an interpreter. The person may or may not be competent. The most likely scenario is that they will not know about the Rule and will bring a bilingual friend or family member. The judge will then have to either delay the matter until a credentialed interpreter can be obtained (waste of time and money), or accept the party's choice (non-uniform standards). Neither is a good option. The inclusion of attorneys is problematical for the same reasons, but less so. Ideally, the court should always arrange for interpreters. If a party is pro se, part of their information package should include the statement that they should inform the clerk's office if they need an interpreter so the court can make those arrangements.

The subject of the transcription and translation of forensic recordings is of particular interest to me since I am the Chair of NAJIT's Transcription/Translation Committee and a nationally-recognized expert in that field. This would be a very long letter if I were to describe to you the number and details of cases I know of that have been delayed or injustices committed because of improper evidence of this kind, at very great expense to taxpayers and the parties involved. Transcription/translation (TT) requires specialized knowledge and experience yet courts and attorneys continually hire untrained people to do them. The TT practitioner should have at least a basic knowledge of specific protocols, procedures and ethics required to perform this task, and should also be prepared to defend their product on the stand if necessary. To avoid procedural problems and miscarriages of justice, it is necessary to include in Rule 42 a requirement that before a judge issues an order appointing an interpreter or translator to prepare a TT, he or she should ascertain that the proposed TT expert have the necessary training and experience to do the job properly. Likewise, when a TT expert takes the stand to present and/or the TT evidence, he or she should receive a rate of pay appropriate for an expert, not that of an interpreter.

The last consideration is of future developments in terms of pilot programs and alternative methods of providing and compensating interpreter services in the courts. The proposed amendments mention them but fail to include language to the effect that any such programs should be developed and implemented with the participation of representatives of the court interpreting community, and that the interpreters who are contracted to work in such programs should be Tennessee Certified and Tennessee residents. Without explicit guidelines, the programs could end up spending Tennessee monies on out-of-state providers that do not use Tennessee interpreters, or do not use certified interpreters, or use interpreters certified in states whose criteria do not match Tennessee's or who, in fact, do not even screen their interpreters at all.

There has been a huge upsurge in remote interpreting (telephone, video) all over the country. Undoubtedly this will form part of the court's toolbox for expediting and economizing on court interpreter services. Remote interpreting can help in many situations but must be closely monitored to ensure that it is used in a responsible way – for short hearings about

less-critical matters. Courts can become very enamored of these technical solutions so care must be taken that they do not overstep established limits.

Finally, the fact that the court interpreting program has received additional funds from the governor this year is, I believe, a recognition of the vital importance of the program and its service to the legal and LEP communities. I do not share the AOC's apparent preoccupation that not even this greatly enlarged budget will suffice due to the expansion of AOC-paid interpreting services in some civil and non-indigent cases. The great bulk of AOC-paid interpreting services will still be in indigent criminal cases whose costs are already being adequately covered by the present budget. Now that it will be tripled, I doubt that there will be a problem with covering what could be, at the very most, a 50% increase in services rendered. Cost-cutting achieved by reducing interpreters' fees is unnecessary and will have negative impacts on courts, attorneys and the LEP community, as credentialed court interpreters feel betrayed and unwilling to continue serving the Tennessee court system. It is a short-sighted solution to a non-existent problem.

I appreciate this opportunity to comment on the proposed amendments to Rule 42 and thank the Supreme Court and the AOC for their attention to my concerns.

Respectfully submitted,
Judith Kenigson Kristy, USCCI, TN CCI,
C.Trans. EN>ES, ES> EN, CTTIC

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2823

From: "Dr. Tony Tadros" <tonytadros@juno.com>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 2:42 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 2:41pm
Submitted by anonymous user: [68.52.166.157]
Submitted values are:

Your Name: Dr. Tony Tadros
Your email address: tonytadros@juno.com
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments:
First of all, I would like to commend the Supreme Court for expanding language services to include civil matters as well as criminal cases, and also to all individuals regardless of their financial status. It is a step into the right direction to provide equal access to justice and abide by the DOJ guidelines and, more importantly, the constitutional rights of all people.

However, there are several items in the proposed amendments that, if passed, would be detrimental to the work of court interpreters and the quality of language services rendered to the Tennessee courts.

- Elimination of the two-hour minimum payment:

The proposed rule removes the two-hour minimum payment that interpreters currently receive. Interpreters are independent contractors and time is their most valuable commodity. Because there is no way to predict how long a court hearing will last, interpreters must block enough time to be able to finish any given assignment. In case of a continuance or a no-show, the interpreter is unable to find work for the remaining portion of time. The two-hour minimum pay is a fair safeguard for the interpreter in these situations. Otherwise, an interpreter may get paid just $10 or $15 for actual time in court, which is totally unacceptable.

- Elimination of travel-time compensation:

The proposed rule would not pay interpreters for time spent traveling to and from court assignments. Considering that credentialed interpreters are not many, concentrated mostly in three or four urban areas, travel is always required. I, for example, am the only Arabic certified interpreter in the state. I live in Williamson County, but I cover cases from Memphis to Knoxville, from Chattanooga to Clarksville. Without compensation for travel time (at 100% of the interpreting rate) it will never be feasible to accept any of these assignments. Even going to the neighboring Davidson County might not be worth it.

Filing a motion in court in advance to consider travel compensation is a lengthy, complicated and impractical process that adds more paperwork, time and effort.

Capping hourly rate for languages other than Spanish @ $75/hour:

Most of these are rare languages with probably just one credentialed

interpreter in the entire state. We have invested a lot of time, effort and money in obtaining and keeping our professional credentials. We are not asking the court to match the rate we get in the private sector, which is a lot higher, but at least to come close to market value for these services. Courts and interpreters should be able to negotiate a fair rate based on individual language/situation.

Capping daily compensation for interpreters:

There should be no daily cap. If an interpreter works 11 hours, and I'm speaking from experience, they should be paid for 11 hours. Otherwise, when an interpreter reaches the daily limit they would either continue to work "for free" or just walk away in the middle of a procedure—both unacceptable!

The hourly rate of $50/$40/$25 (for Spanish Certified, Registered and Non-credentialed interpreters, respectively) should be regarded as "minimums" and not "maximums," considering the highly specialized service they provide to the court.

Denial or reduction of interpreters' compensation based on funds availability:

It is not fair to provide a professional service to the court and not know if I will get paid, and how much. This uncertainty will drive interpreters to more secure assignments in the private sector and other government agencies, and will leave many court cases without an interpreter. A court interpreting assignment is a "contract" and should be fulfilled as such.

Allowing individual courts to set their own rate for interpretation services:

This will definitely create an atmosphere of confusion and uncertainty. Many courts—I personally know a few of them—will try to cut the rates and give work to the lowest bidder, regardless of credentials and experience. The quality of service will suffer and the whole system will crack.

- Allowing "parties" to arrange for interpretation services:

This is a recipe for chaos! Parties (defendants, victims, witnesses, etc.) have no knowledge of court interpreting guidelines and regulations, and will probably bring family members, friends or bilingual Joe-Shmoe to interpret for them in court! Only the court, prosecutors and/or attorneys have the right and responsibility to request a credentialed interpreter.

Omission of priority for TN Certified Court Interpreters in contracted services and pilot programs:

Priority should be given to TN Certified Court interpreters who meet all professional and ethical standards. Otherwise, this will open the door to using non-credentialed interpreters and contracting out-of-state agencies that would cut corners in order to make the highest profit at the expense of service quality. A selection of TN Certified Court Interpreters should be part of any committee working on interpretation pilot programs in the state.

No mention of a "cancellation policy":

This goes back to the matter of interpreters committing a block of their time to the court without guarantee of compensation in case of a last-minute cancellation. An interpreter should be given at least a two-business-day notice of any cancellation/reschedule. Anything sooner should require compensation of the two-hour minimum (for assignments lasting up to four hours); four-hour payment (for assignments lasting a full day); a full-day payment (for assignments lasting two or more days).

The Tennessee Courts, AOC and Legislature have done a great job so far to improve language services for people with Limited English Proficiency (LEP); and now with the designation of more funds, we need to move forward in the right direction. We should look for creative ways to improve efficiency and cost-effectiveness by streamlining the process and raising more funds, not by cutting interpreters' compensations.

I respectfully ask the Court to reconsider these issues and make the right decision for the interest of all parties involved and the welfare of our great State of Tennessee.

Best regards,

Dr. Tony Tadros
B.A., M.A., D.Min.
Arabic Certified Court Interpreter
Arabic Associate Medical Interpreter
Department of State Language Contractor
Tel. 615-371-8707 x 112
E-mail tonytadros@juno.com

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2825

From: "C. Allshouse" <callshouse@selegal.org>
To: <janice.rawls@tncourts.gov>
Date: 6/15/2012 3:09 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, June 15, 2012 - 3:08pm
Submitted by anonymous user: [74.221.189.170]
Submitted values are:

Your Name: C. Allshouse
Your email address: callshouse@selegal.org
Rule Change: Supreme Court Rule 42 - Standards for Court Interpreters
Docket number: M2012-01045-RL2-RL
Your public comments: It may be that the language of (k)(1)(x)"reports of abuse" may open to requiring many more cases than if the language said "case of abuse" as is used in all the other sections above and below.

The results of this submission may be viewed at:
http://www.tncourts.gov/node/602760/submission/2827