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
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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
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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,

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