

August 19, 2016

The Massachusetts Court Reporters Association has been in receipt of complaints from attorneys regarding depositions taken by national court reporting agencies who have entered into a contract with parties to an action; namely, insurance companies, which is in direct violation of M.G.L. c. 221, s. 91(D) which states, "Contracts entered into pursuant to the practice of court reporting, not related to a particular case or reporting incident, between a court reporter or any person with whom a court reporter has a principal and agency relationship and an attorney at law, party to an action, or party having a financial interest in an action shall be prohibited."

Attorneys who do not have a contract/secured agreement with these large investor-owned national court reporting companies have been complaining about their high invoices, being charged for services not ordered, and receiving invoices that are not itemized.

Because the national court reporting agencies are providing litigation support services to their clients, such as databases and deposition summaries, insurers have greater leverage and advantages over consumers who seek redress in the courts; the justice process is compromised.

Individual consumers in Massachusetts, Plaintiff litigants, are being harmed by this practice. The consumers who are Plaintiff litigants in this circumstance do not have a level playing field when it comes to their litigation, and the contractual arrangements are grossly unfair to the other parties who know nothing about them.

Attorneys will not risk their livelihoods and risk losing their client (large corporations and insurance companies) and court reporters cannot compete with the national court reporting companies because the edict has come down from the insurance company to use one national court reporting agency to the exclusion of all others.

Antitrust laws are designed to protect businesses from the harmful effects of anticompetitive, unfair or deceptive conduct, such as market allocation schemes or collusions by large, powerful companies. Yet, this is exactly what is happening in Massachusetts and nationally. These large, powerful national court reporting companies are contracting with insurance companies to be their exclusive provider.

Respectfully,
The Massachusetts Court Reporters Association

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June 23, 2016

The Honorable Maura Healey
Attorney General
Attorney General's Office
One Ashburton Place, 20th Floor
Boston, MA 02108

RE: Court Reporters and Anti-Contracting

Dear Attorney General Healey:

I am writing you on behalf of the Massachusetts Academy of Trial Attorneys (MATA) to encourage your office address an unfair practice involving court reporter contracts. MATA members primarily represent individual plaintiffs and we are committed to advocate on behalf of these individuals. We are concerned about insurance companies and other corporations in Massachusetts securing agreements for services with national investor-owned court reporting firms.

These arrangements undermine the expectation of impartial and independent court reporters and may very well be inconsistent with the Commonwealth's law addressing this practice. Massachusetts is in the majority of states with legislation addressing contracting arrangements between court reporting companies and parties in interest. The Acts of 2002, M.G.L. c. 221, s. 91D(b) states, "Contracts entered into pursuant to the practice of court reporting, not related to a particular case or reporting incident, between a court reporter or any person with whom a court reporter has a principal and agency relationship and an attorney at law, party to an action, or party having a financial interest in an action shall be prohibited." We are concerned that some parties are ignoring this law and there has not been sufficient review or enforcement.

Our members report that despite our legislative safeguards, companies are contracting with large national court reporting companies, resulting in higher fees which are passed along to the individual plaintiffs. This also creates an imbalance that disadvantages smaller local court reporting firms who are shut out of the process. Deposition costs in these cases are often undisclosed or confusing. There are unequal rates and terms between litigants in the same case receiving the same court reporter services which amounts to a cost shifting mechanisms where the injured individuals subsidizes part of the insurance carrier's costs.

The leadership and membership of MATA appreciate your dedication to protecting individual consumers in Massachusetts and applaud your reputation of standing up for those who would otherwise go unheard. We hope you will see this as an excellent opportunity for your office to

look into an issue that may not be the subject of laypeople's "kitchen table" conversations, but has the potential to affect those people when they are the unfortunate injured party paying more than necessary during litigation.

Thank you for considering this very important topic and for your ceaseless dedication to the public interest and cause of justice for the people of Massachusetts.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Dullea", written in a cursive style.

Paul Dullea
Executive Director.

cc: Richard Johnston, Esq.
William Matlack, Esq.
Max Weinstein, Esq.
Matthew Lyons, Esq.
Daniel R. Judson, Division of Insurance

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, August 19, 2016 3:02 PM
To: Tracy, Mary
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Attachments: 08192016 WASTATE SUPPORT LETTER FINAL.pdf

Supreme Court Clerk's Office

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From: Lisa Phipps [mailto:samandjimsmom@hotmail.com]
Sent: Friday, August 19, 2016 3:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: MCRA LETTER OF SUPPORT

Please find attached document in support of CR 28(d). Thank you.