



AUTHORIZED COURT TRANSCRIPTIONIST
ASSOCIATION of ONTARIO

www.actao.ca

February 17, 2019

To:

Arkley Professional Services – melissa@courttranscriptontario.ca

Ministry of the Attorney General: Sheila Bristo - Sheila.Bristo@ontario.ca

Court Reporting Services: - courtreportingservices@ontario.ca

Re: Transcriptionist Registration and Website Agreement

The following issues in form and content were detected (highlighted and noted in red font) upon review of the currently issued Transcriptionist Registration and Website Agreement which Arkley Professional Services has advised ACTs to sign and return to Arkley Professional Services. Please review and make the necessary changes and amendments to the TRWA:

1. Interpretation

1.1 Definitions. The following terms shall have the meanings ascribed to them below unless there is something in the context inconsistent therewith:

(e) “Authorized Court Transcriptionist” means a person who is named in the Registry;

Amend to: “Authorized Court Transcriptionist” means a person who is named in the Registry and who is trained and qualified to transcribe recordings and is a member of a class of persons who are authorized to do so by the Attorney General, but need not be the same person who is in charge of the approved device while the recording is being made. O. Reg. 158/03, s. 4 (2) pursuant to the Evidence Act, R.S.O. 1990, c. E.23.

(f) “Authorized Rates” means the fees for transcription work provided under Ontario Regulation 94/14 under the Administration of Justice Act (Ontario);

Amend to add: “and Ontario Regulation 2/05: (FEE WAIVER – fees for Court transcript cannot be waived)

A definition should be added for “transcript” which is used throughout this agreement: “Transcript” means a certified verbatim reproduction of a digital recording of an Ontario Court proceeding in printed form.

A definition should be added for “transcription work” which is used throughout this agreement: “Transcription work” means the production of a transcript.



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3. Condition; for Maintaining Registration

- 3.2 The Authorized Court Transcriptionist shall not charge more than the Authorized Rates for transcription work.

According to regulations 94/14 and 2/05; the wording should be amended to: **...shall not charge more or less than the "authorized rates" or waive fees** for the production of certified Ontario Court transcripts. See: *R. v. Vandergunst, paras. 147 to 151.*

3.3 The Authorized Court Transcriptionist shall comply with any undertaking he or she gives to any of the following:

- (a) the Attorney General and the Chief Justices of the Superior Court of Justice and Ontario Court of Justice, as a condition for receiving a copy of the audio recording;
- (b) any client of the Authorized Court Transcriptionist for whom work is being carried out.

Amend "work" to "transcription work".

The following should be added to 3.3 – "No Authorized Court Transcriptionist shall enter into an undertaking with a client that does not comply with the *authorized rates.*"

3.4 The Authorized Court Transcriptionist shall:

- (a) adhere to all posted policies, rules, and other directions governing transcript production as set out on the Website;
- (b) comply with all directions given by a judicial officer in relation to preparation of a transcript;

Subsection (b) should be amended to add: except that no Authorized Court Transcriptionist shall make any changes to a verbatim Court transcript at the request of a judicial officer, other than to correct grammar, spelling, punctuation, formatting, and case citations. see *R. v. Hannemann para. 155-158:*

R. v. Grant, Langdon J stated: "It is of fundamental importance that a judge be first, independent and second, impartial. In order to maintain the integrity of the trial record for appellate review, it is equally important that a court reporter be independent and impartial. Judges must remember that a court reporter must personally attest the accuracy of a transcript. A judge ought not to place a court



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reporter in a position where his or her loyalty is divided between professional obligation and the authority of the Court".

Dickson J. (as he then was) in *Baxter Travenol Laboratories of Canada Ltd. v. Cutter (Canada) Ltd.*:

"Reasons for judgment are not meant to be tentative". Judicial review of a draft transcript is designed to advance readability and to assist in catching errors by the transcriber. As such, the exercise is not an opportunity to revise, improve or reconsider the text actually spoken."

"In the exercise of this privilege, however, judges must remember that: No changes of substance may be made in the course of editing for punctuation and grammatical errors."

- (c) carry out all work diligently and to a high professional standard suited to use for judicial purposes;
- (d) produce top quality and accurate transcripts; and

If the definition for transcript is adopted, this subsection (d) should be amended to read: "produce accurate transcripts."

If the definition for transcript is not adopted, this subsection (d) should be amended to read: "produce certified verbatim reproductions of digital recordings of Ontario Court proceedings in printed form."

Paragraph (d) should be amended to remove the words "top quality." The words "top quality" are subjective and provide no contextual instruction.

Please ensure the necessary changes and amendments are reviewed and attended to prior to the current requirement that ACTs sign and submit the TRWA agreement in the coming weeks.

Sincerely,


Shelley Smith ACT

On behalf of the Authorized Court Transcriptionist Association of Ontario

c/: R. v. Vandergunst

R. v. Hannemann

O. Reg. 2/05: FEE WAIVER <https://www.ontario.ca/laws/regulation/050002>

O. Reg. 94/14: FEES FOR COURT TRANSCRIPTS <https://www.ontario.ca/laws/regulation/r14094>

Evidence Act, R.S.O. 1990, c. E.23 <https://www.ontario.ca/laws/statute/90e23>