

# For The RECORD

Volume 2006 No. 1

Winter - 2006

WINTER



## Court Reporters' Association of Ontario

### *Code of Ethics*

- |   |  |
|---|--|
| <b>A</b> ttain and maintain a high standard of reporting. | <b>R</b> espect for all others   |
| <b>C</b> onformity of decorum and dress with dignity.     | <b>E</b> xercise courtesy & integrity  |
| <b>O</b> pen mindedness and professionalism.              | <b>P</b> unctuality, perfection and pride                                      |
| <b>U</b> tmost devotion to professionalism.               | <b>O</b> ffer only honesty of purpose  |
| <b>R</b> ecord verbatim and                               | <b>R</b> eputation and   |
| <b>T</b> ranscribe accurately.                            | <b>T</b> rust above all  |
|   | <b>E</b> xcellent quality of service   |
|   | <b>R</b> eflect merit upon our profession with the constant desire to improve. |

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... For The Record

**2004-2006 Executive****PRESIDENT****Linda Fudge**

7044 Estoril Rd  
Mississauga, ON L5N 1N4  
H(905)826-8330  
W(905)456-4840 ext. 8009  
Linda.Fudge@crao.ca

**VICE-PRESIDENT****Lisa Cumber**

29 Flanders Drive  
Waterdown, ON L0R 2H7  
Tel:(905)541-2747  
Fax(905)690-7333  
Lisa.Cumber@crao.ca

**SECRETARY****Ruth McIver**

291 Britannia Avenue  
Bradford, ON L3Z 1A6  
Tel/Fax: (905) 775-0008  
Ruth.Mciver@crao.ca

**(ACTING) TREASURER****Janice Zufelt**

264 Punshon  
Oshawa, ON L1J 2M7  
(905)723-1464  
Janice.Zufelt@crao.ca

**PAST PRESIDENT****Martha Russell**

R.R. #1  
Oxford Mills, ON K0G 1S0  
Home: (613) 258-4394  
Fax: (613) 258-4394  
Martha.Russell@crao.ca

**TRAINING &  
CERTIFICATION****Gwen Grubb**

Tel: (613)475-0871  
Fax:(613)475-4862  
Gwen.Grubb@crao.ca

**MEMBERSHIP SERVICES****Janice Zufelt**

264 Punshon  
Oshawa, ON L1J 2M7  
(905)723-1464  
Janice.Zufelt@crao.ca

**NEWSLETTER COMMITTEE****Fatima Conceicao**

P.O. Box 448  
Bradford, ON L3Z 2A9  
Home Tel/Fax: (905) 775-6816  
Fatima.Conceicao@crao.ca

**POA CHAIR****Tricia Marinzel**

tmarinzel@sympatico.ca  
Tmonster@netscape.ca

**OPSEU REP****Joanne Knaap**

J.Knaap@sympatico.ca

**ABOUT THIS NEWSLETTER**

Welcome to 2006 and the first newsletter for the year. We hope everyone had a happy and prosperous holiday season.

We are busy making plans for the 2006 convention. The date has been set as October 13, 14 and 15. We have tentatively agreed on holding the convention in Kingston, Ontario. This will be a wonderful venue. Further information will follow in

the next newsletter. In the meantime, visit the [www.crao.ca](http://www.crao.ca) website for up-to-date information regarding the 2006 convention.

Flip through the pages (or screens) and enjoy reading your newsletter.

*Fatima Conceicao**Ruth McIver***Newsletter Committee****WEBSITE & EMAIL****[www.crao.ca](http://www.crao.ca) • [info@crao.ca](mailto:info@crao.ca)****FORUMS**

The Forums section of the CRAO website can be accessed only by current CRAO members. Topics include: General Announcements; Classified Ads; Reporters – Freelance and Contract; New Members; Provincial Offences - POA ; Software/Hardware; Legislation; Speech Recognition; Legal Humour; Vocabulary, Punctuation and Transcript Format; Miscellaneous, General; CRAO Association; OPSEU; Conventions 2006; Convention Registrants; Feedback Convention 2005.

There have been a lot of posts and replies to several of these topics. When you get a chance, go in and take a look at what issues concern reporters around the province or add your comments and concerns.

**How to Find Information and/or Post New Topics on Forums:**

When you go to “Members” and click on “Forums” you will see various Forums on different subjects, for

example “Classified Ads” and “Legislation”. If there is a topic in that forum it will list the number of topics and the number of posts. To open up and view the topics, all you need to do is move your mouse cursor over the forum title in blue capital letters and it will turn to red lettering. Click only ‘once’ on the forum title and it will take you to that forum where you will be able to view all topics and any replies to the post. You can also post a reply to the topic OR you can add a new topic in that category. Please try to remember to post your topic in the forum that it relates to. Do not post topics in General Announcements. This is for the CRAO Executive to use to communicate announcements to membership. **FIRST TIME USERS - PLEASE READ THE DISCLAIMER UNDER THE GENERAL ANNOUNCEMENT FORUM BEFORE POSTING IN ANOTHER FORUM.**

**SOME IMPORTANT NEWSLETTER INFORMATION**

This C.R.A.O. Newsletter is published quarterly by the Court Reporters' Association of Ontario. Please address all correspondence concerning the Newsletter to:

**Your Newsletter Committee:****Fatima Conceicao**

P.O. Box 448  
Bradford, ON L3Z 2A9  
Home Tel/Fax: (905) 775-6816  
Fatima.CCR@sympatico.ca

**Ruth McIver**

291 Britannia Avenue  
Bradford, ON L3Z 1A6  
Tel/Fax: (905) 775-0008  
[r.mciver@rogers.com](mailto:r.mciver@rogers.com)

**SUBMISSIONS:** Anyone wishing to submit articles for publication are encouraged to do so. Please submit articles in IBM compatible (Word or WP - preferably RTF, or ASCII not DOC) or typewritten prior to publication deadline dates found below. Additional copies of the CRAO Newsletter can be obtained for \$2.00/issue to cover postage & handling costs.

**\*\*\*Next Publication Deadline:**

Submit by May 15, 2006

Issue Spring 06

## PRESIDENT'S MESSAGE



The year 2005 has been a very busy and eventful year. The CRAO executive has worked very hard these past two years and we feel that we have accomplished a lot. There is still much to be done and we appreciate all the suggestions and help that have been sent to us.

We would like to wish everyone a very healthy and prosperous new year.

*Linda Fudge, CCR, CVR  
President, CRAO*

## TREASURER CHAIR (UPDATE)

Janice was elected as the CRAO Membership Chair during the last election. As a result of Gail Sexton not being able to continue and complete her term as CRAO Treasurer, Janice offered to take on the additional responsibilities of Treasurer. The CRAO and members want to thank Gail Sexton for her service while CRAO Treasurer.

Since taking on those additional duties, Janice has fully computerized the CRAO books, resulting in quicker searching and data entry. Payment by way of Paypal when signing up on the website is also now up and running. CRAO encourages the use of PayPal and it is the preferred secure method of payment for paying for membership dues, certification and convention fees.

Thank you, Janice!!

## CRAO BUSINESS TELEPHONE CONFERENCES: Minutes of Executive Meeting - February 7, 2006

**Present:** Linda Fudge, Lisa Cumber, Fatima Conceicao, Martha Russell, Gwen Grubb.

The meeting commenced at 7:30 p.m. The subject of the 2006 convention was discussed and it was narrowed to two possible locations, Kempenfelt Resort in Barrie, and Kingston, Ontario. Gwen was going to get prices from Kingston and Ruth McIver was going to get prices from Barrie.

The newsletter was also discussed and the next newsletter will be published within the month of February. Second newsletter expected to be out end of May, 2006.

Advertising on the website was discussed and it was decided that we would try it and see what happens. Linda Fudge was to look into what various

small publications were charging for advertising.

The meeting concluded at 8:30 p.m. and a time for the next executive meeting has not yet been set.

### WHAT IS CRAO WORKING ON:

**NEGOTIATION OF TRANSCRIPT FEES:** Further attempts at negotiating with Quicklaw (LexisNexis) and Canada Law Book for a rate increase in transcripts.

**NEGOTIATING ADVERTISING:** Advertising on website and newsletter.

**POSTING NEW INFORMATION ON WEBSITE:** Our very own CRAO website guru Lisa Cumber, is constantly updating your CRAO website.

### ASSOCIATE MEMBERSHIP STATUS – PROPOSED CHANGES

The CRAO Constitution requires that certain changes require discussion and voted upon at the annual meeting.

*Proposal change #1:* Membership fee increase.

*Proposal change #2:* “Associate” box will be deleted from the Membership Application. Applicants will be asked to write to the Membership Chair with their reasons for requesting “Associate” membership status.

The matter of a membership fee increase and “Associate” box issue will be discussed and voted on at the 2006 CRAO convention meeting by all members in attendance.



## 2005 CRAO CONVENTION

Our 2005 convention was held on October 14th and 15th. A good time was had by all.

We met Friday night and were treated to a lovely dinner at the Provincial Offences Court in Durham Region, after which a demonstration of digital recording equipment was put on by Novo Technologies. It was interesting and would be of great interest to open-mike reporters. It also had a sound amplifying component to it which could be valuable.

We then went to the Holiday Inn in Oshawa for the rest of the convention where there was a hospitality suite. The vendors in attendance were Novo Technologies and ProCat. As always, their displays were interesting and informative.

On Saturday, we held our general meeting. The Treasurer's Report and the Minutes from the 2004 general meeting were approved and will appear later in the newsletter. Anne Newell and Maxine Newell were presented with their 20-year CRAO pins.

The justice guest speaker gave an interesting talk and took a number of questions, suggestions and comments from the participants.

The other speakers were two police officers from Ottawa who were accident reconstructionists who gave an interesting talk and demonstration on how they reconstruct an accident scene to determine as much as possible how the accident happened and who may have been at fault. We even learned what a co-efficient of friction is.

There were a lot of door prizes. The executive and the convention committee would like to thank the following sponsors: Pointts Durham - Ontario Traffic Tickets; Novo Technologies; Pro-CAT; Good Life Fitness; Balka and O'Brien Law Office; Williams Chocolate; Regional Municipality of Durham; PP Print and Digital Services.

All in all a good time was had by all. Many thanks to Chrystal Young and convention committee members Kelly Gatchell, Christiane Zidner, Debbie Slute, Carol-Ann Jones and Sharon Small for all their hard work in putting together the 2005 CRAO Convention!!

*Ruth McIver*

### Comments from membership re 2005 Convention

"Thank you to our Durham Region hostesses for the great convention. The accident reconstruction was definitely informative, as were all the tips picked up from fellow reporters. Might I suggest a stenomask demonstration at some point as there are none in our Northeast Region."

*Jeannette Robertson*

**CCR - Timmins, ON**

"Thanks for a great convention. Met more reporters than I had the last time, food was delicious, topics were instructive, chatting was fabulous and informative. Durham girls, you did a great job. It was well worth the trip from Timmins".

*Lynn Lamminen*

**CCR - Timmins, ON**



**Maxine Newell  
receives 20-year pin**



**Anne Newell  
receives 20-year pin**

## 2006 CRAO CONVENTION

**WHEN:** October 13, 14, and 15, 2006

**WHERE:** Holiday Inn Waterfront,  
Kingston

On the shores of the St. Lawrence River

Further information on the convention will be posted on [www.crao.ca](http://www.crao.ca) and in the next newsletter. If you have any thoughts on what you would like to see at this year's convention, contact Lisa Cumber (Vice-President)

# WELCOME!

Welcome to new members:

Bonnie Anderson  
Nathalie Bleach  
Nancy Chisholm  
Marilyn Lacey  
Bonni Woodford  
Marlene McLafferty  
Brenda Lindala  
Ms. Desormeaux  
Frances Hartman

A very special welcome to a member who lives in Kingston, Jamaica. Yes, Jamaica. This reporter works for the Superior Court in Kingston and is a stenotype reporter certified by NCRA. Our organization is growing!

## ON-LINE CRAO MEMBERSHIP RENEWALS

Membership now runs from the actual date you sign on as a member, as opposed to a calendar year. For example, if you joined on February 15, 2005, your membership runs from February 15, 2005 to February 14, 2006.

If you signed up on-line as a member you will be notified automatically via e-mail two weeks before, one week before, and on the day your membership expires. A URL link will be sent which you can click on (or copy and paste into a browser) which will take you through the renewal process.

PLEASE NOTE THAT  
IN ORDER TO MAINTAIN  
YOUR CERTIFICATION  
YOU MUST BE A MEMBER -  
DON'T FORGET TO RENEW.

Lisa Cumber  
(Vice-President)



## QUESTIONS FROM FELLOW REPORTERS

### RE: RELEASE OF PRIVATE INFORMATION

*Question:* A citizen came and asked to be supplied the NAMES OF THE 12 jurors that were selected to hear a criminal trial. Can we supply those names to the citizen? Is there anything in writing/authority to prove that we CAN or CANNOT supply the names?

*Comment:* It is not our mandate to supply anything other than transcript.

Simply direct person to Administration office. The names of jurors are not even supposed to be mentioned in transcripts. There is to be complete anonymity, from what I understand.

### RE: TRANSCRIPT FORMAT

*Question:* Has anyone come across the *Milgaard* procedure in court? I'm typing a murder prelim and the Crown has entered into or initiated the *Milgaard* procedure. There are six steps. One of the steps is to verify a witness' statement. Now, the Crown has the witness on the stand in-chief. This step six re the statement comes up and now the defence has the opportunity to cross-examine on the statement only (and very limited questioning). Would I be correct in typing this as I would when defence asks questions re an officer's notes?

"Mr. Jones: Asks question"

"A: Answers question"

Not "Cross-examination by Mr. Jones"

Now, the Crown is re-examining in this step six procedure and I am lost. I have no idea now how to continue typing this.

It's not an in-chief, cross-examine, re-examination type of situation. It seems to me to be almost like a *voir dire* but it's a *Milgaard* procedure. Help!

*Comment:* Yes, I have taken a couple. It is a

*voir dire*. I type it as in-chief, cross-exam., et cetera. The same as *KGB* procedure. A *voir dire*, trial within a trial, so to speak. Just my thought.

### RE: EXPRESSIONS IN TRANSCRIPTS

*Comment:* As a new member of the CRAO I've been reading previous newsletters to get a feel for what sort of information is on our website, etc.

Something in the April issue reminded me of a situation that happened last week in court. Both the clerk and I were on a continuation that we hadn't been on months before when the first day of trial had taken place, so we had no idea what had gone on. Defence counsel had a transcript, and was stating how much he appreciated that the reporter who'd typed it had added a number of things in brackets, such as (witness crying), (accused laughing), things of that nature - descriptors that in my view were open to interpretation. This conversation did not happen on record in open court, it was during a break. Counsel's thought was that he liked these additions because they spoke to the mood, etc. as opposed to plain words on a page. In my training (by a seasoned reporter) I was told we were not to add such things, and I never have. I'd be uncomfortable doing so because I think it's too subjective. Sorry that my question is so long - I'd appreciate knowing what others do.

*Response:* Why would any reporter be so anxious to place themselves in such a position to get called as a 'witness'? We have been trained from day one not to place ourselves in a position of attesting to what we 'perceive, assume,' et cetera. Can you just imagine putting in a transcript the interpretation (As the witness laughed) and then having a counsel challenge you on what makes you an 'expert'?

Sorry, but I cannot agree with this reporter that it should even be considered.

*Response:* There may be emoticons on our web site that we can add to our text but never, never, never do we add them to our transcripts. We are there to transcribe the spoken words only. To do otherwise is to put ourselves in the position of becoming a witness at the next level of proceedings. We, as reporters, should not and do not have any opinion on a case. To translate a physical gesture is providing an opinion!!!

If counsel wants these gestures on the record, it is his/her responsibility to put them in words.

*Response:* We are not editors. We take words, verbatim record and on and on. Words, not nuances, or interpretations.

### RE: INTERJURISDICTIONAL SUPPORT ORDERS ACT (PREVIOUSLY RESO)

*Question:* Could someone please help me out with the most current citation regarding the *Interjurisdictional Support Orders Act*, to be inserted at the top of the cover page of a Superior Court of Justice Family transcript? I don't do a lot of these transcripts. Many thanks.

*Comment:* The proper wording is "IN THE MATTER OF The *Interjurisdictional Support Orders Act*, S.O. 2002"

Here is additional information.

This was formerly what we called *RESO* - *Reciprocal Enforcement of Support Orders (RESO) Act*. When One Person Lives Outside Ontario - *Interjurisdictional Support Orders Act*, 2002.

The *Interjurisdictional Support Orders Act*, 2002 (*ISO Act*) streamlines the process for obtaining, varying and enforcing support orders when one party lives in Ontario and the other party lives in a reciprocating jurisdiction outside Ontario. The *ISO Act* came into effect

## QUESTIONS FROM FELLOW REPORTERS (Cont.)

on March 31, 2003. It is administered by the Interjurisdictional Support Orders Unit of the Family Responsibility Office.

A reciprocating jurisdiction is a jurisdiction (territory, province, state, or country) that has entered into a formal arrangement with Ontario to enforce each other's support orders. Reciprocating jurisdictions must have support laws that are similar to those in Ontario. All the Canadian provinces and territories, the United States of America, and a number of other countries are reciprocating jurisdictions.

All Canadian provinces and territories have passed or soon will pass similar interjurisdictional support orders legislation. It is part of a Canada-wide initiative to improve services to families. *The ISO Act* replaces the *Reciprocal Enforcement of Support Orders (RESO) Act*.

### RE: PUBLICATION BANS

**Question:** I heard something new about having to get a judge's approval to type transcripts in cases where there are "Bans". Please tell me more about this.

**Comment:** Publication bans on a matter affects and restricts court files. A transcript is considered part of the court file.

If the file is subject to no publication ban, the file can be released and the transcript typed.

If the file is subject to a ban pursuant to section 517, the file can be made available to the public/media and the transcript typed, but the following warning should be given and noted on the transcript. "A publication ban under section 517 of the Criminal Code was made in respect of this file. Any publication contrary to section 517 is a criminal offence."

If the file is subject to a publication ban pursuant to section 486(3), public accessibility to the court file and transcript must be determined by a Judge. An application (with the Crown and defence notified) should be made to the court seeking access. If possible (and if the trial is ongoing) the matter should be dealt with by the trial Judge. Otherwise, a judge of the same level of court should deal with the matter.

Therefore, if a matter before the court has a Section 486(3) publication ban the transcript can not be typed without an order from the court, and the ordering party should be notified that a transcript is not available without an order from the court, and it is up to the ordering party to make an application to the judge as they need to say why they want the transcript and what they intend to use it for.

## The Importance of Correct Punctuation

-unknown

Dear John:

I want a man who knows what love is all about. You are generous, kind, thoughtful. People who are not like you admit to being useless and inferior. You have ruined me for other men. I yearn for you. I have no feelings whatsoever when we're apart. I can be forever happy--will you let me be yours?

Gloria

*(Thanks to Linda for this submission)*

Dear John:

I want a man who knows what love is. All about you are generous, kind, thoughtful people, who are not like you. Admit to being useless and inferior. You have ruined me. For other men, I yearn. For you, I have no feelings whatsoever. When we're apart, I can be forever happy. Will you let me be?

Yours,  
Gloria

### EVERYTHING I NEED TO KNOW ABOUT LIFE, I LEARNED FROM NOAH'S ARK

- One:** Don't miss the boat.
- Two:** Remember that we are all in the same boat.
- Three:** Plan ahead. It wasn't raining when Noah built the Ark.
- Four:** Stay fit. When you're 600 years old, someone may ask you to do something really big.
- Five:** Don't listen to critics; just get on with the job that needs to be done.
- Six:** Build your future on high ground.
- Seven:** For safety's sake, travel in pairs.
- Eight:** Speed isn't always an advantage. The snails were on board with the cheetahs.
- Nine:** When you're stressed, float a while.
- Ten:** Remember, the Ark was built by amateurs; the Titanic by professionals.

*(Thanks to Brian & Ann Newell for this submission)*

### TEN THINGS GOD WON'T ASK ON THAT DAY.

- 1... God won't ask what kind of car you drove. He'll ask how many people you drove who didn't have transportation.
- 2... God won't ask the square footage of your house. He'll ask how many people you welcomed into your home.
- 3... God won't ask about the clothes you had in your closet. He'll ask how many you helped to clothe.
- 4... God won't ask what your highest salary was. He'll ask if you compromised your character to obtain it.
- 5... God won't ask what your job title was. He'll ask if you performed your job to the best of your ability.
- 6... God won't ask how many friends you had. He'll ask how many people to whom you were a friend.
- 7... God won't ask in what neighborhood you lived. He'll ask how you treated your neighbors.
- 8... God won't ask about the color of your skin. He'll ask about the content of your character.
- 9... God won't ask why it took you so long to seek Salvation. He'll lovingly take you to your mansion in heaven, and not to the gates of Hell.
- 10... God won't have to ask how many people you forwarded this to ... He already knows your decision.

*(Thanks to Lisa Cumber for this submission)*



# COURT REPORTERS' ASSOCIATION OF ONTARIO

## ANNUAL GENERAL MEETING

### MISSISSAUGA, ONTARIO

### SATURDAY, OCTOBER 16, 2004

**PRESENT:**

Linda Fudge, Acting President  
 Ruth McIver, Secretary  
 Heather McMichael, Treasurer  
 Janice Zufelt, Training and Certification  
 Judy Denny, Membership  
 Fatima Conceicao, Newsletter

**ABSENT:**

Martha Russell, Past President

#### ACTING PRESIDENT'S OPENING REMARKS

Linda Fudge welcomed the membership to the convention and commented on current issues.

**VICE PRESIDENT'S REPORT**

- Linda Fudge

Regarding the rate increase committee, Tammy Archer wrote a brief. The committee met with Mr. John Junkin and got a favourable response. They promised to meet again, but that has not happened. The government have been unresponsive to all calls. Talked with Debbie Polsek who stated they will not meet until the grievance filed by Florence Clark et al has been settled (grievance that staff reporters be paid overtime for typing transcripts at home) This grievance was supposed to be going to court in October. There has been no news from Florence Clark.

The website is up and running.

*Motion to accept:* Jean Walters

*Seconded:* Delia Manis

**SECRETARY'S REPORT - Ruth McIver**

There were four conference call meetings over the year.

*Motion to accept:* Gwen Grubb

*Seconded:* Karen Lattimer

**TREASURER - Heather McMichael**

Report was tabled

Balance forward	\$ 7,823.79
Receipts	\$ 10,378.73
Expense	\$ 8,136.38

Book balance as of	
October 14, 2004	\$10,066.14

Heather resigned as treasurer.

*Motion to accept:* Diane Brideau

*Seconded:* Rose West

**NEWSLETTER REPORT**

- Fatima Conceicao

Fatima acknowledged the assistance of Cynthia Dixon (typesetter) and Mikki at the Bradford Print Shoppe (printing), for the attractive, readable format and Ruth McIver.

Three newsletters were sent out last year. We aim for four in a year. The newsletter committee tries to address new developments, case law and committee updates. The last newsletter was sent to some members by e-mail which saves money on postage. If this is successful, this could be done on a larger scale.

Our website address is www.crao.ca Our e-mail address is courtreportersao@hotmail.com

*Motion to accept:* Trish Marinzel

*Seconded:* Judy Robertson

**CERTIFICATION AND TRAINING**

- Janice Zufelt

There were four training seminars: Barrie, Oshawa, London and the convention. This probably accounted for a low turnout at the convention seminar.

The seminar held Friday, October 15th, was very successful. It was a good session with a lively debate on such issues as changing regulations, accuracy and integrity.

A letter was read from Gwen Grubb concerning new government policies. It was suggested that this letter be published in some lawyers' publications.

Karen Lattimer commented on the lack of continuity, each district appears to be different.

Janice Zufelt commented that there have now been six manuals plus poor training and hiring. There is a web manual on the government's intranet - changes often.

Joanne Hardie commented that the certification does not specify dubbed tape.

*Motion to accept:* Jeanette Robeel

*Seconded:* Janet Fulkerson

**MEMBERSHIP - Judy Denny**

There has been an increase in numbers from 64 last year to 80 this year plus memberships new at the convention.

Judy extended a welcome to all new members and suggested they take advantage of the wealth of experience encompassed in our membership.

There were four life memberships handed out: Gail Van Laere - 1983 - Newmarket; Ruth McIver - 1972 - Toronto, Scarborough and Newmarket; Val Erwin - 1983 - Newmarket; Linda Fudge - 1984 - Brampton

*Motion to accept:* Donna Severin

*Seconded:* Delia Manis

**MINUTES** from the 2003 Annual Meeting were tabled.

*Motion to accept:* Heather McMichael

*Seconded:* Gail Sexton

**NEW BUSINESS****ELECTIONS:**

Scrutineer - Judy Denny

**PRESIDENT**

Linda Fudge (Acclaimed)

*Motion to accept:* Jean Walter

*Seconded:* Susan Lafontaine

**VICE PRESIDENT**

Lisa Cumber (Acclaimed)

*Motion to accept:* Joanne Hardie

*Seconded:* Gwen Grubb

**SECRETARY**

Ruth McIver

Gail Sexton (Withdrawn)

*Motion to accept:* Karen Lattimer

*Seconded:* Trish Marinzel

**TREASURER**

Gail Sexton

Gwen Grubb (Withdrawn)

*Motion to accept:* Wendy Campbell

*Seconded:* Suzanne Lafontaine

**NEWSLETTER**

Fatima Conceicao (Acclaimed)

*Motion to accept:* Val Brown

*Seconded:* Gwen Grubb

**MEMBERSHIP**

Gwen Grubb (Withdrawn)

Janice Zufelt

*Motion to accept:* Gail Sexton

*Seconded:* Judy Robertson

**TRAINING**

Gwen Grubb

*Motion to accept:* Donna Severin

*Seconded:* Chrystal Young

**NEW EXECUTIVE:**

President

Linda Fudge

Past President

Martha Russell

Vice President

Lisa Cumber

Secretary

Ruth McIver

Treasurer

Gail Sexton

Newsletter

Fatima Conceicao

Membership

Janice Zufelt

Training

Gwen Grubb

#### RESTRUCTURING MEMBERSHIP AND TREASURER

Gail and Janice can work together. Membership chair can send receipts. To maintain certification, it is necessary to maintain membership. This has been in the newsletter. A letter is to go out to all certified non-members (400) to advise them of this.

**MOTION BY CAROLYN BERNARD**

THAT the Association contact MERC (Management Employees Relations Committee) Team in order to express interest in assisting the manual committee in a cooperative manner with the aim of consistent and accurate transcript production throughout the province.  
*Seconded:* Jeanette Salmon  
 CARRIED

**MOTION BY KAREN LATTIMER**

THAT there be a separate POA sub-committee to bring concerns to executive.

*Seconded:* Debra Slute

CARRIED

**NOMINEES:**

Diane Brideau

Trish Marinzel - Elected

Chrystal Young

*Motion to accept:* Janice Zufelt

*Seconded:* Janet Fulkerson

**CONVENTION 2005**

It was proposed by POA Durham Region that they host the 2005 convention. The date was set for October 14 - 15.

**MOTION TO ADJOURN:** Diane Brideau

**SECONDED:** Lisa Cumber

## INEPT COURT TRANSLATORS CALLED 'THREAT TO JUSTICE'

By CHRISTIE BLATCHFORD  
Friday, November 18, 2005

BRAMPTON, ONT. -- One of Ontario's busiest and most multicultural courthouses has for five years been using interpreters who are so woefully unqualified they routinely failed the provincial accreditation test and, in some instances, may not have been able even to read the language they were being paid to translate.

The situation, described as posing "a critical threat to justice," is contained in a sharp judgment yesterday by Mr. Justice Casey Hill of Ontario Superior Court.

Noting that the use of unskilled interpreters has already caused mistrials where he sits in Brampton, the judge concluded that "it is statistically inevitable that there exist as-yet undiscovered miscarriages of justice."

Judge Hill pointed out the dangers. While gross mistakes in translation can be easily identified, he said, "subtle deficiencies, words and inaccurate interpretations, even few in number passing under the radar screen, risk wrongful conviction."

It was when the judge began hearing what he originally believed would be an ordinary appeal alleging unacceptable trial delay at the Peel Region courthouse that he discovered, instead, the scandal that was long in the brewing.

This courthouse, which opened in 2000, is Ontario's second largest and, as the judge noted, "with the jurisdiction's multicultural demographics, is the highest user of interpreters" in the province, and serves a daily transient population of tens of thousands.

Yet despite the inherent vulnerability of so many Peel Region residents -- newcomers to Canada not fluent in English, sometimes poor and likely to be easily intimidated by the court process -- those accused of crimes were often abjectly served by the justice system.

Judge Hill heard evidence that from 2001 through the early part of this year, unaccredited interpreters -- responsible for translating a total of 10 languages into English -- who had failed the Ontario test at least once had worked a total of 2,670 days.

In the same time period, 19 interpreters -- translating 25 other languages -- who had never taken the test at all worked 592 court days.

This information is contained in a review of interpreter invoices, a document Judge Hill said reveals that "for years, in addition to trials," these unaccredited and unskilled interpreters worked assignment court, contested bail hearings and consent releases and guilty pleas and sentencings at both the Ontario Court and Superior Court levels.

Though the problem was revealed in the summer of 2004 to Justice and government officials, the practice continued in Peel Region, with Judge Hill noting that this year alone, unaccredited interpreters were used 54 times in court, and unaccredited interpreters who had failed the test worked in 96 instances.

Even those interpreters who pass the test may not be competent, the judge said, because there is only an English vocabulary test for half the languages that are interpreted in Ontario's courts and the test itself has been so "dumbed down" to avoid a higher failure rate that it has been rendered almost meaningless.

The potentially poisonous impact of poor translation may be best illustrated by a case Judge Hill was told about in testimony from Shamin Jhooty, a well-regarded, experienced and certified Punjabi/English interpreter who received her training in British Columbia and has a master's degree in journalism.

Describing the Ontario accreditation system as at best "an aptitude test" that might discover if someone had "a knack" for languages but was hardly adequate for the challenges of critical court interpretation, Ms. Jhooty told the judge how she was once approached by a Peel colleague who is accredited by the Ontario system and at that point had been working for two years.

The colleague asked, "When they say the Crown is honest, what exactly do they mean?" Only with difficulty, Judge Hill said, was Ms. Jhooty "eventually able to establish that 'the Crown is honest' was actually 'it is the Crown's onus.'" " "

That simple phrase, which means the prosecution bears the burden of proof, is one that is used in courtrooms across the country every day.

"Ms. Jhooty finds herself regularly consulted by Punjabi interpreters, working in the courts for years, particularly regarding legal terminology," Judge Hill wrote, and she said of them they "would fail any test in legal terminology."

While the judge found that much of the blame for the situation in Peel Region lay with two individuals -- a woman named Forouz Masrouz, a government employee since 1991 and the "interpreter co-ordinator" for the provincial Attorney-General's Ministry in Brampton, and Gerri Wyatt, the supervisor of court operations -- he also found that "management ignored or abandoned" the seriousness of the issue, minimized the complaints that were coming in about the interpreters, and viewed what was a key "access to justice" matter as a labour-relations problem.

The case that started Judge Hill on what became "a long and twisting story" involved a man named Avtar Sidhu, a Punjabi-speaking man who had been convicted in June of 2003 of several counts of assault causing bodily

harm and who was sentenced to six months in jail.

Judge Hill was hearing an appeal of that conviction by Mr. Sidhu's lawyer, Anthony Moustacalis of Toronto, who was seeking a stay and alleging that his client's Charter rights had been breached.

What Judge Hill learned was that Mr. Sidhu's first trial had been declared a mistrial after the trial judge realized that he may have had a problem with the court-appointed interpreter and ordered that his work be reviewed. Ms. Jhooty did that review, found the man had used the word "Henh?" 27 times in a 36-page transcript, a word she said "means either he has not understood the question or has not heard it properly," had been adding or dropping words to his translation, or getting whole responses wrong.

**Saturday, November 19, 2005**

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Second-hand smoke at Fenbrook nets convict thousands.

A convicted murderer is getting thousands of dollars in compensation after being exposed to second-hand smoke in a Gravenhurst prison.

A Federal Court of Canada judge has awarded Vlado Maljkovich \$5,000 in a case his lawyer says sets a precedent for other inmates.

Maljkovich sued Correctional Services Canada, claiming he was exposed to second-hand smoke at the Fenbrook Institution. He was serving a life sentence for killing his wife and daughter in Toronto in 1993.

The judge's decision noted Maljkovich was in non-smoking areas of the prison and entitled to live without exposure to second-hand smoke. It also said Correctional Services Canada failed to take what would have been reasonable steps to ensure the smoking policy was enforced.

Maljkovich's lawyer, John Hill, says his client had no choice but to sue. "Mr. Maljkovich became ill and found it very uncomfortable living in that kind of environment," Hill said. "(He) wanted it stopped, the Correctional Service of Canada refused to do so, so he brought suit and today we received a judgement saying that he was absolutely right."

The decision could be costly for taxpayers, if as Hill believes, it sets a precedent for every inmate who suffers as a result of second-hand smoke. "If the federal government had spent more time watching it's own anti-smoking commercials, rather than defending this kind of an action, I think everybody including the taxpayer would have been ahead of the game."

Maljkovich is now at the Pittsburgh Institution in Kingston, Ont., where he says he continues to be exposed to second-hand smoke.

*(Thanks to Lisa Cumber for this submission)*