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16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18

19 EL RESCATE LEGAL SERVICES,) No. CV 88-1201 WPG
20 INC., et al.,)
21 Plaintiffs,) MEMORANDUM OF UNDERSTANDING
22 vs.)
23 EXECUTIVE OFFICE FOR IMMIGRATION)
24 REVIEW, et al.,)
25 Defendants.)

FILED

JUN 17 3 55 PM '91

U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
[Signature]

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1 proceedings that come before the Immigration Court, including but
2 not limited to individual calendar proceedings, master calendar
3 proceedings, group hearings, and bond redetermination
4 proceedings. The Injunction covers only oral communication
5 (except as set forth in Section III.D. herein) and applies only
6 when the respondent is present at the proceedings.

7 II. The Scope of Interpretation Within Each Proceeding

8 A. The determination that a respondent requires interpretation
9 ("need determination") shall be the Immigration Judge's first
10 order of business after taking the bench and introducing² a
11 respondent's case. However, any discussion about a respondent's
12 case before it is introduced shall be interpreted. If
13 interpretation is required, subject to provision II.B. below,
14 complete interpretation must commence immediately after the need
15 determination is made. The right to complete interpretation
16 applies throughout the entire proceeding until the Immigration
17 Judge adjourns the proceeding.³ At each and every proceeding
18 subsequent to the proceeding where the need determination was
19 made, complete interpretation shall commence when the Immigration
20 Judge introduces the case.

21 B. If interpretation is required and an interpreter is not
22 available, the presiding Immigration Judge shall continue the

23 _____
24 ²The Immigration Judge "introduces" the case by identifying
25 the type of proceeding, the file number, the date and place of
26 the proceeding, and the presence of relevant courtroom
27 participants.

28 ³For purposes of the injunction, the Immigration Judge
"adjourns the proceeding" when he/she ceases discussing the case.

1 matter so that an appropriate interpreter can be obtained. In
2 such circumstances, the Immigration Judge may communicate the
3 rescheduling information to the respondent and/or his counsel in
4 any manner practicable.

5 C. The right to complete interpretation includes interpretation
6 of all on-the-record and off-the-record oral communication
7 occurring during the respondent's proceeding (as defined in
8 Section II.A.). Under the right to complete interpretation,
9 audible social, administrative, and extraneous conversations
10 involving participants to a proceeding shall be interpreted.
11 Nothing herein shall limit the discretion of an Immigration Judge
12 to schedule a pretrial or status conference without requiring the
13 respondent to be present. Nor shall anything herein preclude an
14 Immigration Judge from temporarily adjourning or recessing a
15 proceeding to discuss with other EOIR personnel an administrative
16 matter unrelated to the substance of the respondent's case.

17 III. Waiver

18 A. The Immigration Judge shall not accept waivers of the right
19 to complete interpretation from unrepresented respondents.

20 B. A represented respondent may waive the right to complete
21 interpretation, provided the Immigration Judge determines on the
22 record that the waiver is made knowingly, intelligently, and
23 voluntarily.

24 1. The Immigration Judge, in his/her discretion, may
25 raise the question of waiver;

26 2. The Immigration Judge, in the exercise of his/her
27 discretion, may make the knowing, intelligent, and voluntary

1 determination by speaking with counsel and/or respondent, as
2 warranted by the circumstances;

3 3. The questions the Immigration Judge asks to make this
4 determination are left to the Immigration Judge's discretion.

5 C. In any case where the Immigration Judge determines to accept
6 a waiver of the right to complete interpretation through
7 inquiries made of counsel, this determination shall be made on
8 the record and with complete interpretation of the inquiries to
9 and responses of counsel.

10 D. In bond redetermination proceedings only, a respondent's
11 counsel may execute a written waiver of the right to complete
12 interpretation. Such written waiver shall be interpreted or
13 translated for the respondent. In the limited case of a bond
14 hearing for a represented respondent who speaks only a language
15 other than English or Spanish, and for whom an interpreter is not
16 available on the day of the hearing, the bond hearing may proceed
17 without interpretation based on a written waiver executed by
18 counsel. Such a written waiver shall apply only to that single
19 appearance. Notwithstanding this provision, defendants shall
20 make all reasonable efforts to obtain interpreters for these
21 proceedings.

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1 IV. Effective Date of Memorandum of Understanding

2 This Memorandum of Understanding will take effect two
3 weeks after the Court signs the Stipulation and Order which is
4 filed concurrently with this Memorandum of Understanding.

5 It is so agreed.

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7 For Plaintiffs:

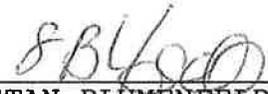
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28 Date: JUNE 12, 1991

Date: 6/17/91