

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA**

FLORES VIDAL ENRIQUEZ)	
and MARK WEISSENBERG)	
)	
Plaintiffs,)	
)	
v.)	
)	No.: _____
BRADLEY COUNTY, TENNESSEE,)	
)	Judge _____
Defendant.)	

COMPLAINT

Come now Plaintiffs, by and through counsel, and state as follows for their causes of action against Defendant:

THE PARTIES

1. Plaintiff Flores Vidal Enriquez (“Mr. Enriquez”) is a natural person and resident of Bradley County, Tennessee.
2. Plaintiff Mark Weissenberg (“Mr. Weissenberg”) is a natural person and resident of Bradley County, Tennessee.
3. Defendant Bradley County is a political entity and subdivision lying within the Eastern District of Tennessee.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, because the claims arise from violations of Title VI of the Civil Rights Act of 1964 (“Title VI”), as amended, 42 U.S.C. § 2000d, *et seq.*, and relate so closely to the Title VI claims

that they form part of the same case or controversy and are subject to supplemental jurisdiction under 28 U.S.C. § 1367(a).

5. This Court has personal jurisdiction over Bradley County, because it is located and is headquartered within Tennessee.

6. Venue is proper in this Court under 28 U.S.C. § 1391, because the events and omissions giving rise to the claim occurred in the Eastern District of Tennessee.

FACTS

7. Bradley County budgets for and maintains the Bradley County General Sessions Court through expenditures from its general fund.

8. Bradley County has the authority to provide services to those who appear before its General Sessions Court, including the services of interpreters.

9. At all times relevant, Bradley County has received and spent federal revenues. For example, during the fiscal year ending 2011, federal revenues make up seven per cent of Bradley County's total revenues.

10. As a recipient of federal financial assistance, Bradley County was, at all times relevant, and continues to be, subject to Title VI of the Civil Rights Act of 1964, codified at 42 U.S.C. §§ 2000d to 2000d-7.

11. Title VI provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

12. The requirements of Title VI apply and govern the actions of Bradley County even if state laws, local laws, or court rules conflict with those requirements.

13. Limited English proficiency defendants charged with crimes appear before the Bradley County General Sessions Court by compulsion. Many of these limited English proficiency defendants are Hispanic and primarily speak Spanish.

14. Such defendants have no choice but to appear before the Bradley County General Sessions Court.

15. To effectively communicate in Bradley County General Sessions Criminal Court, such defendants must use an interpreter.

16. Upon information and belief, Bradley County charges Hispanic limited English proficiency defendants for the use of interpreters but allows other limited English proficiency defendants to use family members or friends as interpreters.

17. For example, upon information and belief, two recent defendants who spoke only Chinese and Russian, respectively, appeared in Bradley County General Sessions Court and were not charged for the use of a court appointed interpreter, but rather, were allowed to use family members or friends as interpreters.

18. A Hispanic limited English proficiency defendant charged with a crime in Bradley County must have the benefit of an interpreter in order to have meaningful access to the courts.

19. Bradley County has intentionally chosen to charge only Hispanic limited English proficiency persons for the right to effectively communicate in court proceedings.

20. Bradley County has intentionally discriminated against Hispanic limited English proficiency persons on the basis of race, color, and national origin by requiring them to pay for interpreters in order to communicate in court proceedings.

21. Bradley County's policy is and has been to assess the cost for these interpreter services against the Hispanic defendants who need those services unless the court makes a finding of indigence and relies on state funds to pay the interpreter.

22. Bradley County has continued to adhere to its illegal policy despite notice that it violates Title VI.

23. This policy tends to discourage Hispanic defendants who need interpreter services from using those services.

24. Such a policy directly discriminates against Hispanic limited English proficiency persons on the basis of race, color, and national origin.

25. Furthermore, the specter of paying interpreter costs creates leverage to discourage a Hispanic limited English proficiency defendant from having his or her day in court and, instead, to choose to plead guilty without regard for the merits of the charge.

26. Bradley County's policy requires Hispanic limited English proficiency defendants to pay extra in order to have a fair opportunity to defend themselves.

27. As the Department of Justice has stated, "court proceedings are among the most important activities conducted by recipients of federal funds . . . Courts that charge interpreter costs to the parties may be arranging for an interpreter's presence, but they are not 'providing' the interpreter. DOJ expects that, when meaningful access requires interpretation, courts will provide interpreters at no cost to the persons involved." August 16, 2010 Letter from Assistant Attorney General Thomas E. Perez to state court administrators, attached hereto as Exhibit A.

28. Bradley County has assessed interpreter costs against many Hispanic limited English proficiency defendants over the years.

29. On September 18, 2010, Bradley County law enforcement officers cited Mr. Enriquez for the alleged offense of Simple Assault.

30. He was summoned to appear before the Bradley County General Sessions Court on November 4, 2010, November 18, 2010, December 2, 2010, and December 17, 2010.

31. On the above dates, Mr. Enriquez appeared before the Bradley County General Sessions Court to defend himself against the charge.

32. Mr. Enriquez was born in Tampico, Mexico, and, as a result, has limited English proficiency.

33. Mr. Enriquez's first language is Spanish. He needed the services of an interpreter to understand the charges and proceedings and to defend himself against the charges.

34. At the request of the court, Mr. Weissenberg provided interpreter services during Mr. Enriquez's hearing on December 17, 2010.

35. After compelling Mr. Enriquez to appear in the Bradley County General Session Criminal Court four times, the court dismissed the charges against Mr. Enriquez, yet assessed court costs against him for interpreter services.

36. Mr. Enriquez paid these costs, and, as a result, Mr. Weissenberg received payment for his services.

37. Bradley County has benefited from Mr. Weissenberg's interpreter services in the cases of many other Hispanic limited English proficiency defendants with regard to whom Mr. Weissenberg never received payment.

Count I
42 U.S.C. § 1983 for Violation of Title VI of the Civil Rights Act of 1964
(by Mr. Enriquez)

38. Plaintiffs incorporate the allegations contained in paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. Bradley County intentionally charges Hispanic limited English proficiency defendants for the right to communicate in criminal proceedings.

40. Bradley County purposefully implemented this policy knowing it would violate the rights of Hispanic limited English proficiency defendants.

41. Section 601 of Title VI of the Civil Rights Act of 1964 prohibits such intentional discrimination.

42. As a direct and proximate result of Bradley County's intentional discrimination, Mr. Enriquez has incurred monetary damages.

43. As a direct and proximate result of Bradley County's intentional discrimination, many other Hispanic limited English proficiency defendants have incurred an ostensibly enforceable monetary obligation to Bradley County and are subject to arrest at any time because of that debt.

Count II
Quantum Meruit
(by Mr. Weissenberg)

44. Plaintiffs incorporate the allegations contained in paragraphs 1 through 43 of this Complaint as though fully set forth herein.

45. Since June 2005, Mr. Weissenberg has acted as an interpreter in many cases involving Hispanic limited English proficiency defendants in Bradley County General Sessions Court.

46. Federal statutes and the United States Constitution require Bradley County to provide such interpreter services.

47. The fair value of Mr. Weissenberg's interpreter services is \$40.00 per hearing, up to one hour and \$40.00 per hour thereafter.

48. Mr. Weissenberg has provided interpreter services in approximately 2,405 cases.

49. Mr. Weissenberg has only been compensated for his work when the Bradley County General Sessions Court has made a finding that the Hispanic limited English proficiency defendant was indigent or when a defendant happened to pay the court costs assessed him for interpreter services.

50. In many cases, however, Bradley County has not paid Mr. Weissenberg for his services.

51. Mr. Weissenberg has provided approximately tens of thousands of dollars of value in unpaid interpreter services to Bradley County.

52. Mr. Weissenberg's services were valuable to Bradley County, because Bradley County was statutorily and constitutionally bound to provide such services.

53. Bradley County received the benefit of Mr. Weissenberg's services.

54. Mr. Weissenberg reasonably understood that he should be paid for his services, regardless whether the defendant was indigent or chose to pay his court costs.

55. Bradley County should have reasonably understood that Mr. Weissenberg expected to be compensated, as evidenced by the explicit acknowledgements judges in Bradley County General Sessions Court to Mr. Weissenberg, as well as their actions.

56. It would be unjust for Bradley County to attempt to meet constitutional and statutory obligations to Hispanic limited English proficiency defendants in Bradley County General Sessions Court at Mr. Weissenberg's expense when Bradley County, not Mr. Weissenberg, holds the obligation to allow Hispanic limited English proficiency defendants meaningful access to its courts.

WHEREFORE, Plaintiffs respectfully request that the Court:

- a. Issue process and serve same upon Bradley County;
- b. Enter judgment in favor of Plaintiffs and against Bradley County for compensatory damages arising from their causes of action and other costs and expenses;
- c. Tax the costs of this action against Bradley County;
- d. Declare that Bradley County's policy of charging Hispanic limited English proficiency defendants for the use of interpreters during court proceedings violates Section 601 of Title VI of the Civil Rights Act of 1964;
- e. Enter injunctive relief against Bradley County prohibiting ongoing violations of Title VI of the Civil Rights Act of 1964;
- f. Award Plaintiff's attorneys' fees under 42 U.S.C. § 1988(b); and
- g. Grant Plaintiffs such other and further relief to which they are entitled at law or in equity.

Respectfully submitted,

MILLER & MARTIN PLLC

By: s/ Kevin D. Hudson
Travis R. McDonough, BPR No. 018795
Kevin D. Hudson, BPR No. 027316

Suite 1000, 832 Georgia Avenue
Chattanooga, Tennessee 37402-2289
Telephone (423) 756-6600
Facsimile (423) 785-8480
Attorneys for Plaintiffs