

**Case:** *Municipality of Anchorage and NovaPro Risk Solutions vs. Paul Mahe*, Alaska Workers' Comp. App. Comm'n Dec. No. 125 (October 27, 2009)

**Facts:** Paul Mahe (Mahe) is a former employee of the Municipality of Anchorage (Municipality) and a native of Samoa. He asked for a second extension of time to prepare his appellee's brief and for a translation of the appellants' brief to Samoan. The Municipality objected to a further extension because Mahe had already been granted one extension, despite the commission's statement that it would expedite the case in an order denying the appellants' motion for stay pending appeal. The Municipality also objected to translating its brief.

Mahe's wife testified that, while she understands and can translate English, she was having trouble with the legal language. Mahe testified that he could understand spoken English but he cannot read it. Attorney Robert Rehbock testified he would enter an appearance and write the brief if an extension was granted.

**Applicable law:** In *Kalmakoff v. State, Commercial Fisheries Entry Comm'n*, 693 P.2d 844 (Alaska 1985), the Alaska Supreme Court recognized that lack of an interpreter could constitute denial of due process of law, but it did not in Kalmakoff's case because his wife was able to interpret for him and because lack of English fluency was not the primary barrier to presentation of his evidence.

**Issues:** Should the Municipality be required to pay for a translation of the brief? Should the commission grant the extension of time?

**Holding/analysis:** The commission was reluctant to impose the costs of obtaining a translation on the party filing the document because it was generally the receiving party's responsibility and expensive to obtain a good translation. The commission concluded it would do so only when it was "the only way of overcoming a significant barrier to meaningful participation in an appeal and the requesting party is able to demonstrate inability to pay for the translation." Dec. No. 125 at 4-5. The commission found that, "owing to his wife's ability to translate for him, Mr. Mahe's ability to respond to the brief filed by the appellants is not dependent upon a translation of the appellants' brief. Instead, Mr. Mahe's lack of knowledge of legal matters and legal terms not readily translatable to Samoan, poor reading and writing skills, and perhaps lack of practice in abstract analysis, are the barriers to his understanding. With the aid of his wife and his attorney, these barriers can be overcome." *Id.* at 3. Thus, the commission denied the motion requesting a translation of the appellants' brief.

The commission granted an extension of 56 days to file the appellee's brief because it was "persuaded . . . that a short delay to allow Mr. Rehbock to enter a formal appearance and file a brief on Mr. Mahe's behalf will promote the prompt and just resolution of this appeal." *Id.* at 5. The commission warned that it would deny any further requests for extensions.

**Note:** *Municipality of Anchorage v. Mahe*, Comm'n Dec. No. 129 (March 16, 2010) decided the merits of the appeal.