

January 30, 2015

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VIA HAND DELIVERY & ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Kris Anne Monteith
Acting Chief, Consumer and Governmental
Affairs Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Confidentiality Request for Response and Request for Imposition of Sanctions on Ultratec, Inc. With Respect To Written Ex Parte Presentation—Internet-Based TRS Certification Application of CaptionCall, LLC; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123.

Dear Ms. Dortch and Ms. Monteith:

Pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”) and the rules of the Federal Communications Commission (“FCC” or “Commission”), CaptionCall, LLC (“CaptionCall”), hereby requests confidential treatment for documents that CaptionCall is producing as part of its Response and Request for Imposition of Sanctions on Ultratec, Inc. filed today, January 30, 2015 (“Response”). The Response contains company-specific, confidential and/or proprietary commercial information and financial data that are protected from disclosure by FOIA Exemption 4 and the Commission’s rules protecting information that is not routinely available for public inspection and that would customarily be guarded from competitors.

Pursuant to 47 C.F.R. § 0.459, CaptionCall provides the following information:

1. *Identification of the specific information for which confidential treatment is sought.* CaptionCall requests that all of the proposed redacted information in the Response be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect confidential commercial, financial, and other information not routinely available for public inspection. The Response contains company-specific, competitively sensitive, confidential and proprietary commercial information concerning CaptionCall's internal operations that would not routinely be made available to the public, and customarily would be guarded from competitors. If such information were disclosed, Sorenson's competitors could use it to determine Sorenson's competitive position and performance, and could use that information to gain a competitive advantage over Sorenson.
2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* This information is being submitted to you pursuant to CaptionCall's Response to Ultratec Inc.'s December 23, 2014 *ex parte* submission.
3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Response is sensitive information regarding CaptionCall's operations. This is company-specific, competitively sensitive, confidential and proprietary, and commercial. This information can be used to determine information about CaptionCall's operations and is sensitive for competitive and other reasons. If this information were not protected, CaptionCall's competitors could use it in an effort to compete unfairly with CaptionCall's business.
4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates to the provision of VRS, which is subject to vigorous competition. If the information is not protected, CaptionCall's competitors will be able to use it to their unfair competitive advantage.
5. *Explanation of how disclosure of the information could result in substantial competitive harm.* Because this type of information is not subject to public inspection and is guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm because CaptionCall's competitors could assess aspects of its operations and could use that information to undermine CaptionCall's competitive position.
- 6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.* The confidential information in the Response is not readily available to the public. CaptionCall routinely treats this information

as confidential and/or proprietary. CaptionCall assiduously guards against disclosure of this information to others.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* CaptionCall requests that the redacted information be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.* The confidential information contained in the Response would, if publicly disclosed, enable CaptionCall's competitors to gain an unfair competitive advantage. Under applicable Commission and federal court precedent, the information provided by CaptionCall on a confidential basis should be shielded from public disclosure. Exemption 4 of FOIA shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question clearly satisfies this test.

Sincerely,



Michael B. DeSanctis
Counsel for CaptionCall, LLC

January 30, 2015

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REDACTED VERSION

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
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Kris Anne Monteith
Acting Chief, Consumer and Governmental
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Re: Response and Request for Imposition of Sanctions on Ultratec, Inc. With Respect To Written Ex Parte Presentation—Internet-Based TRS Certification Application of CaptionCall, LLC; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123.

Dear Ms. Dortch and Ms. Monteith:

CaptionCall, LLC (“CaptionCall”), by and through counsel, respectfully submits this letter in response to the December 23, 2014 *ex parte* Letter from Ultratec, Inc. (“Ultratec”) requesting that the Commission deny CaptionCall’s Application for Certification to provide Internet Protocol Captioned Telephone Service (“IP CTS”).

Ultratec’s December 23 Letter is frivolous, and should be dismissed out of hand. Indeed, because Ultratec’s Letter constitutes such a flagrant abuse of the Commission’s certification and *ex parte* processes, CaptionCall requests that the Commission sanction Ultratec in order to deter similarly frivolous and abusive filings in the future.

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CaptionCall is the industry leader in rigorously training and testing its communications assistants (“CAs”) to compliance and performance standards.¹ Accordingly, it is not surprising that Ultratec’s December 23 Letter identifies no CaptionCall activities or policies that violate any Commission rule or order, and none that violates the applicable mandatory minimum standards.

Rather, as the Commission may be aware, Ultratec and CaptionCall are currently embroiled in a patent infringement dispute pending in federal court. Ultratec’s December 23 Letter mischaracterizes certain testimony and evidence from that unrelated proceeding and appears to serve no purpose other than to gain leverage in the marketplace, in the litigation and in the negotiations surrounding it. For the reasons we discuss in more detail below, the Commission should strike Ultratec’s abusive filing, deny its unfounded opposition to CaptionCall’s Application for Certification to provide IP CTS, and impose appropriate sanctions on Ultratec to deter similarly frivolous filings in the future.

In addition, Ultratec’s Letter shines a spotlight on its apparent policy of knowingly extending the duration of its IP CTS calls, thus artificially inflating the minutes of use for which providers using its IP CTS service seek compensation from the TRS Fund. That policy should be prohibited.

I. CaptionCall Is In Full Compliance With The Minimum Standard Requiring Verbatim Relay.

Ultratec’s sole allegation is that the manner in which CaptionCall trains its CAs to deal with the inevitability of stray words that are inaudible in the relay process somehow violates the Commission’s verbatim captioning requirement. There is absolutely no legal or factual support for that allegation.

The relevant Commission regulation states that “CAs are prohibited from **intentionally** altering a relayed conversation and . . . must relay all conversation [sic] verbatim unless the relay user specifically requests summarization” 47 C.F.R. § 64.604(a)(2)(ii) (emphasis added). That regulation flows from the Communications Act’s requirement that the Commission adopt rules to “prohibit relay operators from **intentionally** altering a relayed conversation.” 47 U.S.C. § 225(d)(1)(G) (emphasis added). In proposing its rule, the Commission explained that “[t]he purpose of the [verbatim rule] is to assure that the relay operator, **to the extent reasonably possible**, serves as a transparent conduit between two people communicating through disparate modes, and we believe **operators must be provided reasonable discretion in meeting that responsibility.**” *In re Telecommunications Services for Hearing-Impaired and Speech-Impaired*

¹ CaptionCall currently provides IP CTS services under Sorenson Communications, Inc.’s provisional certification. It is CaptionCall’s petition for its own certification that forms the basis for Ultratec’s December 23 Letter.

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Individuals, and the Americans with Disabilities Act of 1990, Notice of Proposed Rulemaking, 5 FCC Rcd 7187, 7189-90 ¶ 17 (1990) (emphasis added) (hereinafter “1990 NPRM”).

CaptionCall prides itself on training its CAs to comply with this and all other Commission requirements. Indeed, every CaptionCall CA is tested weekly, which means that CaptionCall administers over █████ individual test sessions annually. The result is CaptionCall’s industry leading average speed of █████ words per minute – almost █████ times the Commission’s mandatory minimum requirement – with an average █████% accuracy.

As part of its formal training process, CaptionCall painstakingly educates its CAs on the proper compliance with all Commission regulations, including the verbatim captioning requirement. Thus, CaptionCall’s CA Training Manual, given to every CA, quotes the entirety of the Commission’s verbatim captioning regulation, 47 C.F.R. § 64.604(a)(ii)(2), and expressly instructs the CAs that:

- **CaptionCall’s goal is to offer speed and accuracy, verbatim dictation and call confidentiality**

-and-

- **CA’s are prohibited from intentionally altering or disclosing the content of a relay conversation and *Must Relay All Conversation Verbatim.***

See CaptionCall CA Training Manual at 1, 3 (emphasis in original) (attached hereto as Exhibit A). Ultratec is in possession of this Training Manual, and even used it affirmatively at the same patent trial on which its December 23 Letter is based. Ultratec’s failure to disclose this document to the Commission highlights the profound bad faith underlying the December 23 Letter.

Other CaptionCall training materials similarly emphasize the importance of verbatim captioning. For example, CaptionCall’s “New Hire Orientation” materials, which are provided to every new CA, instructs:

CAs are required to relay all conversations verbatim.

- **Intentionally altering content is prohibited.**

See CaptionCall New Hire Orientation (excerpt attached hereto as Exhibit B).

In addition, as part of its annual compliance training given to all CAs every year, CaptionCall expressly reinforces that:

CAs must adhere to the following policies:

- **Relay conversations verbatim**
 - **CAs are barred from intentionally altering the conversations they relay**

See Communications Assistant Eligibility and Requirements (excerpt attached hereto as Exhibit C).

Ultratec cites neither of these latter two documented policies in its December 23 Letter. Unlike the Training Manual, which Ultratec has and used at the patent trial, Ultratec likely is unaware of these latter two documented policies because it never so much as asked CaptionCall about its verbatim captioning policies before running to this Commission and making patently false allegations in a public filing. Instead, Ultratec misrepresents to the Commission that CaptionCall “expressly instructed its CAs *not* to caption calls verbatim.” Dec. 23 Letter at 3 (emphasis in original). That – which is the entire basis of its December 23 Letter – is conclusively contradicted by the documented procedures cited above.

II. CaptionCall’s Documented Procedures For Dealing With Inaudible Words In Captioned Conversations Is Consistent With All Mandatory Minimum Standards And Is Designed To Maximize The Service’s Accuracy.

Ultratec cites no evidence for its contention that CaptionCall’s handling of inaudible words in captioned conversations violates the Commission’s verbatim captioning rule or any other mandatory minimum requirement. Nevertheless, Ultratec very passionately cries foul by calling attention to certain testimony and evidence from the parties’ recent patent litigation trial that describe CaptionCall’s policy for handling inaudible words in the course of a captioned conversation. That policy is consistent with all Commission rules and orders, and is, on its face, designed to **maximize** the verbatim accuracy of every IP CTS call. As stated above, CaptionCall is proud of its average █% accuracy across all IP CTS calls. And while CaptionCall continually strives for even greater accuracy, there is no regulation requiring it.

The art and skill of modern captioning depends on a human CA’s ability to accurately hear and understand another human being’s speech through the phone (often a cell phone) and, in turn, the ability of voice recognition software to accurately transcribe the CA’s speech for the hard-of-hearing user. It is impressive, though imperfect. Indeed, even Ultratec has recognized that it would be unrealistic to insist on CAs captioning with 100% accuracy. In 2010, for example, Ultratec explained to the Commission that “[t]here is no question that modern voice recognition

is an amazing technology. But there is also no question that no matter how well trained a CA may be, the system will still make some mistakes.” See Ultratec Ex Parte Notice, *In re Structure and Practices of the Video Relay Service Program*, GC Docket No. 03-123 (FCC filed Mar. 23, 2010). More recently, Ultratec insisted that, in its experience, “95% accuracy is reasonably achievable at a transcription speed of 125 wpm” – considerably less than CaptionCall’s average transcription speed. See Reply Comments of Ultratec, Inc., at 6-7, *In re Structure and Practices of the Video Relay Service Program*, GC Docket No. 03-123 (FCC filed June 3, 2014) (hereinafter “2014 Ultratec Comments”). Ultratec then cautioned the Commission on whether and how it might require greater accuracy “[d]ue to certain challenges that may be experienced by CAs during real-world captioning, such as poor audio quality, background noise, very rapid speakers, speakers with accents, multiple speakers, and the use of jargon, technical terms, and foreign words by speakers.” *Id.* at 7 n.22.

Likewise, the Commission itself has recognized the inherent tension between the twin goals of speed and accuracy. It has called for comment, for example, on whether it should require a minimum transcription speed coupled “with a specified error rate.” See *In re Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13,420, 13,485 ¶ 141 (2013), *vacated in part on other grounds sub nom., Sorenson Communications Inc. v. FCC*, 755 F.3d 702 (D.C. Cir. 2014) (hereinafter “2013 FNPRM”). And it has asked whether providers should “be permitted to compromise speed in favor of greater accuracy or vice versa.” *Id.* at 13,485 ¶ 142. To date, however, the Commission has not adopted IP CTS rules requiring any specific rate of accuracy or transcription speed (other than the general mandatory minimum of 60 words per minute, 47 C.F.R. § 64.604(a)(iii)).

To the contrary, the Commission has acknowledged in related contexts the difficulties of live captioning. In its recent Order regarding closed television captioning, the Commission recognized “that it may be impossible, using today’s technologies, to always achieve fully accurate captioning on live programming due to the particular constraints involved with captioning such programming.” *In re Closed Captioning of Video Programming, Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking*, Report & Order, 29 FCC Rcd. 2221, 2250FCC 14-12, ¶ 42 (2014). Thus, with respect to IP CTS, it has been left to the reasoned professional discretion of each provider to determine for itself how best to balance the competing objectives of speed and accuracy in order to provide its customers with the most functionally equivalent service possible.

CaptionCall has risen to that challenge by carefully training its CAs on how to respond to the inevitability of inaudible, or otherwise missed, words or phrases while maintaining the flow of the captioned conversation as close to real-time as possible. In the unfortunate event that a portion of a conversation cannot be transcribed, CaptionCall trains its CAs on how to use “QuickWord” technology to indicate the problem to the user. With just a few quick key strokes,

for example, the CA is able to inform user that the “Speaker is inaudible” or that audio is “Muffled,” that there is “Loud background noise interfering with the captioning,” that the “Audio is cutting in and out,” that there is “Static,” or that “Due to technical difficulties, captioning is unavailable.” These are clearly spelled out in the CaptionCall procedural document entitled “Missed Call Content” that is attached to Ultratec’s December 23 Letter as Exhibit A.

Where, by contrast, these unfortunate but sometimes unavoidable phenomena cause the CA to miss only an inaudible “word or two,” CaptionCall instructs its CAs to “[s]imply move on to the next word.” *See* Dec. 23 Letter, Ex. A. This reflects CaptionCall’s reasoned professional judgment (and common sense) as to how best to respond to an unintentionally missed one or two words. It is designed to maximize the functional equivalency of the call by minimizing the amount of words that are missed, while keeping the flow of the conversation as real-time and uninterrupted as possible.

Somehow, Ultratec uses this documented Missed Call Content procedure to claim repeatedly that CaptionCall “instructs its employees to skip portions of IP CTS calls.” *See* Dec. 23 Letter at 2. That is nonsense. It is evident from the face of the Missed Call Content procedure itself that it addresses situations only in which the CA **already has missed the one or two words**. *Id.* The point of the procedure is then to instruct the CA on how to get back on track as quickly as possible without getting flustered and without falling behind. CaptionCall **never** has instructed any of its CAs to intentionally skip or miss words, or to intentionally alter the relayed conversation, in violation of the verbatim captioning requirement. *See* 47 C.F.R. § 64.604(a)(2)(ii) (“CAs are prohibited from intentionally altering a relayed conversation”). Certainly, nothing in the oral trial testimony of CaptionCall’s witnesses quoted in Ultratec’s December 23 Letter is to the contrary. *See* Dec. 23 Letter at 5-7.

For reasons that are not clear, Ultratec criticizes CaptionCall’s Missed Call Content procedure as prioritizing speed over accuracy. *See* Dec. 23 Letter at 9. CaptionCall prefers to see it as striking the most functionally equivalent balance between those two competing goals. Ultratec, by contrast, insists that it seeks to prioritize accuracy (with increased latency) over speed. *Id.* Neither approach runs afoul of the Commission’s mandatory minimum standards required for certification. *See* 2013 FNPRM at 13,485 ¶ 142 (asking, but not answering, whether IP CTS providers should “be permitted to compromise speed in favor of greater accuracy or vice versa?”).²

² Indeed, the precedents that Ultratec cites in which the Commission denied or delayed certification for failure to meet the mandatory minimum requirements are not remotely analogous. *See* Dec. 23 Letter at 10-11; *Notice of Grant of Conditional Certification for Purple Communications, Inc. to Provide Internet Protocol Captioned Telephone Service*, Public Notice, CG Docket Nos. 03-123 and 10-51, DA 14-1627 (CGB rel. Nov. 7, 2014) (delaying Purple’s

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CaptionCall believes that IP CTS providers should have the flexibility to strike different balances (within reason) between accuracy and latency, and allow the preferences of IP CTS users to guide the providers. A healthy, competitive market will effectively regulate itself as providers seek to differentiate themselves in order to attract new customers. In turn, each IP CTS user will be able to choose the provider that strikes the most functionally equivalent balance for him or her.

The Commission, however, should be deeply troubled by what Ultratec's December 23 Letter reveals about exactly how it claims to strike that balance. In its Letter, Ultratec describes how it prioritizes accuracy over speed, and explains that "if they fall behind when captioning a conversation, **each CapTel service provider CA is instructed to pause the words being presented to them** using specially designed software and hardware so that they can catch up their captioning." *See* Dec. 23 Letter at 9 (emphasis added). This is not an alternative to CaptionCall's Missed Call Content procedure. In violation of the mandatory minimum requirement that TRS conversations be transmitted "in real time," 47 C.F.R. § 64.604(a)(1)(vii), Ultratec's practice of intentionally pausing the conversation content addresses its CA's apparent tendency to fall behind in their captioning, rather than the unrelated issue of the manner in which CAs respond to inaudible words and phrases.

More importantly, however, Ultratec's practice of intentionally pausing the incoming conversation content necessarily extends the duration of the call. Ultratec has admitted as much. *See* Patent Application 5,909,482 at 6:29-34 (recognizing that the technology used to pause the conversation content "would clearly slow down the through-put of the communications"). It follows that by knowingly extending the duration of their IP CTS calls, Ultratec is artificially inflating the number of minutes for which providers using its CapTel service seek compensation from the TRS Fund.

We, of course, do not have access to those providers' IP CTS call detail records. But the Commission does have such access through the Fund Administrator. It stands to reason that the average length of those providers' IP CTS calls will be longer than the average length of an IP CTS call relayed by CaptionCall. If so, this technological crutch used by Ultratec to help CAs using its technology keep up with the real-time pace of a conversation is at odds with the Commission's mandate to provide functionally-equivalent communications in the most efficient manner. It ignores the requirement of real time captioning and results in Ultratec-CapTel providers illegitimately drawing on the TRS Fund for conversation minutes that need not occur and should not be billed. In essence, it appears that Ultratec is hiding behind the façade of accuracy in a way that generates unnecessary minutes of use. This harms consumers, improperly burdens the Fund, and should be prohibited.

relevant IP CTS certification where, for years, Purple had failed to make available **any** emergency 911 calling capability on certain of its IP CTS platforms.)

III. The Commission Should Sanction Ultratec To Deter Future Frivolous And Abusive Filings.

As shown above, Ultratec's Dec. 23 Letter, styled a petition to deny CaptionCall's application for certification is frivolous. It obviously was filed without any investigation whatsoever into CaptionCall's policies requiring verbatim captioning. It misrepresents CaptionCall's documented Missed Call Content procedure. And it appears to serve no legitimate purpose other than to harm its principal marketplace competitor and to gain leverage in the negotiations surrounding an unrelated patent dispute. It is thus an abuse of the Commission's certification and *ex parte* filing procedures, and it has wasted the Commission's and CaptionCall's time and limited resources.

Under similar circumstances, the Commission very recently has sternly admonished parties that, like Ultratec, have abused the Commission's certification and other procedures for improper purposes motivated by private disputes. *See, e.g., In re Telecommunications Relay Services and Speech-To-Speech Services for Individuals With Hearing and Speech Disabilities Structure and Practices of the Video Relay Service Program Notice of Grant of Conditional Certification for CSDVRS, LLC, to Provide Video Relay Service After Its Acquisition by Kinderhook Capital Fund IV, L.P.*, Order, CG Docket Nos. 03-123, 10-51, DA 15-119 (2015). Here, CaptionCall respectfully requests that the Commission bar Ultratec from making any future filing without first securing the Commission's permission, and that it impose appropriate sanctions to deter Ultratec from engaging in similarly frivolous and abusive tactics in the future. *See, e.g., 47 U.S.C. § 154(i), (j) and 503; 47 C.F.R. § 1.52; Commission Taking Tough Measures Against Frivolous Pleadings, Public Notice, 11 FCC Rcd 3030 (1996)* (a pleading may be deemed frivolous under 47 C.F.R. § 1.52 if there is no "good ground to support it"); *In re Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992 Development of Competition and Diversity In Video Programming Distribution and Carriage, Second Report and Order, 9 FCC Rcd 2642, 2657 ¶ 36 (1993)* (frivolous complaint is one "filed without any effort to ascertain or review the underlying facts"); John F. Garziglia, Esq., Letter, 26 FCC Rcd 12,685, 12,687 n.15 (MB 2011) (*citing In re Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes, Notice of Proposed Rulemaking, 2 FCC Rcd 5563, 5563 ¶ 2 (1987)*) ("We believe that 'abuse of process' may be characterized as any action designed or intended to manipulate or take improper advantage of a Commission process, procedure or rule in order to achieve a result which that process, procedure or rule was not designed or intended to achieve"); *In re Applications of High Plains Wireless, L.P., Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 4620, 4623 ¶ 9 (WTB 2000)* ("[a]n abuse of process ordinarily involves an intent to gain some benefit by manipulating the Commission's procedures").

We appreciate your consideration of this response, and we would be happy to discuss the matter with you further at your convenience.

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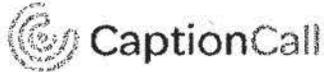
Sincerely,

A handwritten signature in cursive script that reads "Michael B. DeSanctis". The signature is written in black ink and is positioned above the printed name and title.

Michael B. DeSanctis

Counsel for CaptionCall, LLC

Exhibit A
(redacted)



Physical Demands (if applicable):

Be able to sit for extended periods of time and be able to hear and speak clearly in order to effectively dictate conversations for hearing and hard of hearing customers.

Equal Employment Opportunity:

Sorenson Communications is an Equal Opportunity Employer

Service

Customers

CaptionCall's goal is to offer speed and accuracy, verbatim dictation, and call confidentiality.

Co-Workers

Communications Assistants should respect their mentors, get to know their team members, and be coachable.

Ethical Decision Making

Ethical issues have been an important focus of Sorenson Communications. It is vital that Communications Assistants understand their responsibility in this area.

Sorenson Communications takes the ethical responsibility of every employee very seriously. CEO Pat Nola brings home the point by stating, "We operate everyday doing the right things-- whether others are aware of it or not. Saying we have integrity is easy but means less than nothing, if we do not reflect those beliefs in every action we take."

While laws and Codes of Conduct are often written to guide an individual toward ethical decision making, these formal codes cannot dictate the answer to every situation that is presented to an individual on a daily basis. Ethical decision making involves evaluating a given situation and making the right decision even when the wrong one is easier or personally advantageous.

There are four crucial questions to consider when making a decision on an ethical dilemma. They are:

- Is the potential solution legal?
- Does it violate Sorenson Communications' Policy?
- Does it violate professional codes of ethics?
- Does it violate the Golden Rule?

Communications Assistants are working with a great deal of autonomy, and are entrusted with the task of acting with integrity and serving as an example to those they work with at all times.

The front page of the newspaper will provide innumerable examples of flagrant ethical and legal violations - embezzlement, insider trading, assault in the workplace; the list goes on. Ethical decision making, however, is often about the less blatant, but no less insidious examples. Most





everyone would agree that stealing from the company, in addition to being illegal, is ethically wrong.

Communications Assistants need to understand their role is to engage in ethical behavior at all times. CA's should be focused on the importance of confidentiality, honesty, integrity and competency.

FCC Rules Regarding TRS Confidentiality and Altering of TRS Calls

Section 64.604(a)(2) of the FCC's rules states in full:

(2) Confidentiality and conversation content. (i) Except as authorized by section 705 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only for as long as it takes to complete the subsequent calls.

(ii) CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained.

FCC Standards for TRS's

Avoid Disruptions

CA's must stay with a call for a minimum of 10 minutes to avoid disruptions to the user (refer to Handoff Procedures for additional information).

Availability

CaptionCall is open 24 hours a day, year-round. There are many different shifts available for CA's.

Average Speed of Answer

All CA's must answer 85% of all calls within 10 seconds.



CaptionCall

Call Content

CA's are prohibited from intentionally altering or disclosing the content of a relay conversation and *Must Relay All Conversation Verbatim*.

Confidentiality

All call content is confidential at all times. This includes on the floor, outside of work, and to fellow employees. **CA's may not keep records of call content.**

CaptionCall Standards

Expectations

CA's must provide a minimum dictation speed of wpm with % accuracy.

Performance

- Login Efficiency - %
- Speed - WPM Minimum
- Accuracy %+

Dress Code

Present a professional, business-like image at all times. Maintain high personal grooming standards.

Work Area

Leave your station clean for fellow co-workers who may be using the same station.

Biometric Timeclock

The BioClock (Employee Transaction Manager) provides CaptionCall CA's with an effective way to clock in and out for time worked.

Each time a CA swipes their finger on the biometric time clock it reflects as a punch in Ultipro. CA's will be able to see the exact time they worked or took a break based on the punches made by the CA. Punches can be viewed in Ultipro by a CA the second a finger swipe is made.

This also allows CA's to see how many hours they have worked down to the minute so there is no need for a CA to ask the Operation Coordinator for the number of hours they have worked.

With the simple swipe of a finger, BioClock allows Sorenson CA's to securely:

- Clock in
- Clock out



Exhibit B



CaptionCall®

Life is Calling

New Hire Orientation



FCC Standards for TRS's

Call Content

CA's are required to relay all conversations verbatim.

- Intentionally altering content is prohibited
- Relaying explicit content and/or profanities on calls may be necessary
- Profanities are not permitted outside of calls

Confidentiality

CA's may not keep any records of call content.

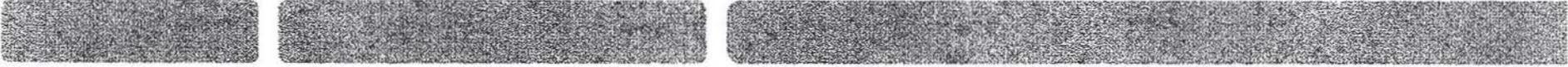
- Any call content needs to remain confidential at all times
- Including:
 - On the call floor
 - Outside of work
 - To fellow employees

Exhibit C



Communications Assistant Eligibility and Requirements





Requirements

CAs must adhere to the following policies:

- Relay conversations verbatim
 - CAs are barred from intentionally altering the conversations they relay
- Call length
 - CAs are prohibited from intentionally limiting the length of any call
 - Including, but not limited to, early termination of an active call or closing the call process application except in the case of an illegitimate call
- Refrain from disclosing content of any relayed conversation
 - CAs are prohibited from saving any information from relayed calls