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**FCRA**  
Association

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OFFICIAL PUBLICATION OF THE FLORIDA COURT REPORTERS ASSOCIATION APRIL/MAY/JUNE/JULY 2018

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## DEPARTMENTS

Bulletin Board.....	2
President's Message: FCRA February in Pictures.....	4
Editor's Message.....	5

## ASSOCIATION BUSINESS

The Hills are Alive: Tallahassee Capitol Hill Day.....	7
Arlene P. Sommers Award Nomination Form.....	8
Student Corner: How Much Longer?.....	9
Emily Mann Distinguished Service Award Nomination Form.....	10
Best "Boot" Forward NCRA Legislative Boot Camp 2018.....	12
Deaf in a Hearing World - The ABCs of Deaf Culture.....	16
Covering Remote Depositions.....	17
Christine's Corner: Searching the Library of Court Reporting...Google.....	19
The Diamond Vault, Part II.....	20
Communication as Easy as One-Two-Three.....	28
Becca's Bootcamp: Spring Clean Your Waistline!	
90 Days to SuperFIT, Healthier & Happier You.....	29
1,000 New Words Just Added to Merriam-Webster from	
"binge-watch" to "Seussian".....	31
7 Tactics for Working a Job or Career Fair.....	32
Bailey & Associates Court Reporting Deposition Video.....	33
Look a Gift Horse in the Mouth: The Pitfalls to Gifts and Ethical Obligations.....	34
Pushing Lawmakers to Protect Quality Court Reporting.....	36
Video Depositions: Linguistics, Seinfeld, and Juror Engagement.....	38
Court Reporter Found to be Independent Contractor by	
California Appeals Board and EDD Audit.....	46
In a Flashback.....	55
Brilliant Perspective.....	64

## FCRA WELCOMES

Membership Application.....	65
Membership Pre-Authorized Payment Plan Form.....	66



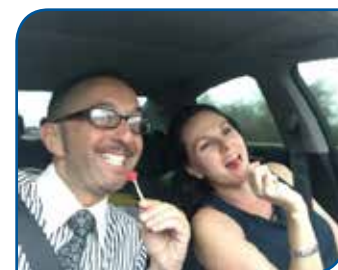
By Lori L. Bundy, RMR, CRR, FPR, 2017-2018 President



# FCRA February in Pictures

February is always a busy month for FCRA with Court Reporting & Captioning Week and our annual trip to the Capitol to meet with legislators, and this year was no different. Court reporters and captioners all over the state of Florida were recognized the week of February 11 – 17. Below are just a few of the pictures of FCRA members, judges, and staff with our Passion for the Profession posters that hung all over courthouses in Florida.

One of the things I love about being on the board of FCRA is that I get to travel with my fellow board members. I love a road trip (and traditions)! On our travels to Tallahassee the week of CR&CW, Richard Scire and I continued our tradition of the travel cheese plate and dessert.



Our meetings were scheduled and also attended by our lobbyist, Marty Pinto, from The Fiorentino Group. FCRA's mission was to bring awareness to the fact that court reporters are not certified in the state of Florida, and we were prepared with our message. The statute for certification has been held in abeyance since December 7, 1999 due to lack of funding. In each of our meetings, the representatives, senators, and staff personnel were all dismayed at how this statute could have been overlooked for so long. "Shall means shall" were the words we kept hearing over and over in each meeting. At the end, we had the support of each office we visited.



We were scheduled and met with the following offices: Rep. Cord Byrd, Rep. Jason Fischer, Vanessa Thompson with Sen. Jeff Brandes' office, Sen. Rene Garcia, Beth Lerner with Rep. Bill Hagar's office, Rep. Tracie Davis, Rep. Larry Metz, and Sen. Gary Farmer.



Continued on page 5



By **Richard S. Scire, RPR,**  
FCR Online Editor, FCRA Secretary

## Editor's Message: Change with a 'Capitol' C

**T**he late country music singer, Jimmy Dean, once said, "I cannot change the direction of the wind, but I can adjust my sails to always reach my destination." We are part of a profession that is ever changing. Like most change, some changes come with more resistance than others, but the steps we take to adjust doesn't necessarily mean a negative outcome or experience. We can always use it to our advantage and continue to thrive, if we take the time to learn and steer ourselves along the path.

In this issue you will see how your FCRA Board of Directors have been hard at work. Some of us traveled to Tallahassee during Court Reporting & Captioning Week and Hill Day to speak with legislators about our ongoing effort toward a state certification and to challenge the ignoring of the statute along with sharing our frustrations. Michelle Smith, Treasurer, and I journeyed to Reston, VA, for NCRA's Legislative Boot Camp. After Boot Camp, we went to Washington D.C. and had the opportunity to speak with legislators on Capitol Hill about a \$1 million captioning grant toward education for court reporting schools.

As with the last several issues now, we have new contributors in this issue as well. I am pleased to introduce to you California Court Reporter Todd Olivas, who is sharing his story with us, which is perfect for tax season. My friend and author, Joy Weston, has written about communication. Whether it's fellow reporters, attorneys, or your spouse at home, I hope you can learn something from Ms. Weston. I had the privilege to bear witness to The Veterans Project while I was in D.C. Veteran Rob Jones has graciously contributed to this issue's "Mind, Body, Spirit" Column.

Additionally, in this issue, as part of our ever-changing profession, you will learn about Expedite! Expedite is the new creation of my good friend and fellow Florida Reporter, Eve Barrett. Technology has been very good to our profes-

sion. When you think about how we have evolved from paper notes to electronic machines and realtime or how we went from snail mail to email and text messaging, why are we still relying on old methods of communicating to track down a reporter for that last-minute job or turning down a job if we don't have to? Eve created a tool for reporters, firm owners, and attorneys alike. I hope you will enjoy Ms. Barrett's words and will download and use the app.

Along with other changes, if you do not know about it yet, I am very excited to announce the renaming of this magazine, so put your thinking caps on. "FCR Online" was a good name. It served us well for years. I think we as well as time have outgrown the name. As much as I enjoy serving as your editor and occasionally think this magazine is mine, it is not. It belongs to the members of FCRA, which is why I had the idea to not only rename the magazine in the revamp, but have it done by the members. After all, we weren't always called "FCR Online." We have had a few changes in our nearly 60 years, as you will read and hopefully have read in Donna Kanabay's articles of "The Diamond Vault" series. If you have not read them, please do and get inspiration for your entry. Past names include Symposium and Shorthand Notes. The winner and the new title will be announced at the annual convention in Daytona Beach.

Speaking of the convention, this year will bring changes to the realtime contest. Thanks to the brilliance of the Realtime Committee, there is much more reason to participate. Other changes include our annual fundraiser. The Basket Extravaganza is being replaced with The Treasure Trove. Read this issue for all the details. The Convention and Fundraising Committees are hard at work and look forward to bringing you an exciting event, so enjoy this issue and I look forward to seeing you in Daytona Beach shining bright like a diamond.

Seeking qualified, professional  
Independent Court Reporters to add to  
our busy Overflow List. Assistance sought  
to cover proceedings in the Polk and  
Central Florida area.

If interested please contact us at  
[info@courtreportingspecialists.com](mailto:info@courtreportingspecialists.com)

### FCR Online Deadline Dates

(WINTER) DEC/JAN/FEB/MAR  
Article Submission — November 5  
On-Line Publication — December 12

(SUMMER) APR/MAY/JUNE/JULY  
Article Submission — March 5  
On-Line Publication — April 12

(FALL) AUG/SEPT/OCT/NOV  
Article Submission — July 5  
On-Line Publication — August 12



# FCRA February in Pictures



If you know any legislators in Florida personally, please let FCRA know by emailing [loribundy@yahoo.com](mailto:loribundy@yahoo.com).

Another highlight of our Tallahassee trip was meeting the official court reporters of Leon County.

## SHINE BRIGHT LIKE A DIAMOND AND JOIN THE FCRA REALTIME CHALLENGE IN DAYTONA BEACH

Door prizes will be given to every challenger. CHALLENGE YOURSELF AND COMPETE AGAINST OTHER REPORTERS SPARKLING THEIR WAY INTO THE RECORD BOOKS. The Realtime Challenge consists of Literary material at 180 wpm, Jury Charge material at 200 wpm, and Q & A material at 225 wpm. If you shimmer through ANY leg with 96% accuracy, you will receive NCRA CEUs (pending approval).

First place winner – the Gem  
 Second place winner – the Jewel  
 Third place winner – the Rhinestone  
 The overall winner – the SOLITAIRE!  
 (The challenger with the highest combined average score)

All competitors who place will win a *bauble*, with the *treasure* being one free year of FCRA membership for the SOLITAIRE WINNER!

You may compete in ALL CAPS! You must be able to produce either an RTF, TXT or PDF transcript to receive CEU credit.

Your proctor will have a USB drive to which you will export your text. FCRA follows NCRA's guidelines of "What is an Error," which may be found at <https://www.ncra.org/files/Certification>

Compete against your *brilliant* peers and win the *crown* as one of the best that FCRA has to offer! Your name will be announced at the awards luncheon and you will be recognized amongst your peers as one of the best of the best!



By Richard S. Scire, RPR,  
FCR Online Editor, FCRA Secretary

## The Hills are Alive: Tallahassee Capitol Hill Day



The 5<sup>th</sup> Annual National Court Reporting & Captioning Week and, thanks to the proclamation by Governor Rick Scott, Florida Court Reporting & Captioning Week had a bigger impact in Florida and Capitol Hill than last year.

This year I was able to attend Hill Day with some of my fellow board members to talk to legislators and staff. Our goal was to voice our ongoing efforts toward a mandatory certification. We had a positive experience educating new legislators and staffers about our profession and the fact that the statute for our certification has been ignored for far too long. One legislator was so impressed with us court reporters and our tireless efforts that she asked to keep our poster for Court Reporting & Captioning Week. We obliged and let her have it. She hung the poster on the wall immediately, before we even left her office suite.

Most of us drove to Tallahassee the day before. President Lori Bundy was gracious enough to pick me up in Sarasota and we drove up together. See the President's Message for our fun snacks and road trip.

The next morning we met the others in the cafeteria of the Capitol in Tallahassee where we met the others, including our two lobbyists. Our meetings were scheduled all day long. We had 15-minute timeslots. Having never done this before, I wasn't quite sure what to expect, especially since this day came before NCRA's Legislative Boot Camp. Some of the meetings we were all able to attend. We were advised

for others to pick and choose two or three to attend. As we walked into the first meeting suite, I ran into somebody that recognized me from Sarasota. I still can't quite figure out who he was but that seemed to calm my nerves a bit.

As the day went on, meetings ran late and then later. Luckily, because there were six of us, President Lori Bundy, Immediate Past President Christy Bradshaw, Vice President Amy Yarbrough, Treasurer Michelle Smith, Northern Director Tracy Finan, and myself, we were able to divide and conquer.

In the afternoon before the last meeting, Lori and I, as official reporters, paid a visit to the Tallahassee official reporters. It was an honor to meet them, see their setup, and take pictures with them in front of the Court Reporting & Captioning Week sign.

All in all it was a productive trip, another step in the right direction. It served a precursor to NCRA's Boot Camp. Our educating others about what we do and the importance of our profession is always a great opportunity. On a day when there are so many people in so many professions and so many organizations fighting for their ongoing issues and causes, what I learned the most is how important it is for us to take part in these events. We have been the silent profession for far too long and it's been a pleasure to be a part of this profession and FCRA where I can lend my voice for the fine members who make up our association and profession.

## Nominations for Arlene P. Sommers Award for Outstanding Achievement in Education

- Has an outstanding educator played a role in your reporting career?
- As a student, has a teacher's leadership and dedication helped motivate you to achieve your goals?
- Has a fellow teacher's example helped you to become a better teacher?
- As an administrator, do you want to show your appreciation and admiration for your outstanding educator?

If so, you have the opportunity to see that that teacher is given the recognition he or she deserves by nominating him or her for the Arlene P. Sommers Award for Outstanding Achievement in Education. (Guidelines are set forth below.)

Nominations must include biographical data that lists outstanding achievements in and out of reporting, the number of years in reporter education, special interests

and talents, publications and awards, etc. Humorous stories about your nominee are also appreciated.

Nominations must be received by Sharon Velazco, [scribe3159@aol.com](mailto:scribe3159@aol.com) or by fax: 407-774-6440 by MAY 7, 2018. Students, fellow faculty members, administrators, or FCRA members are all eligible to submit nominations.

## Arlene P. Sommers Award for Outstanding Achievement in Education

### I. ELIGIBLE APPLICANTS

Those teachers, tutors, or administrators engaged in a court reporting educational program in the state of Florida approved by the award committee, or any other person who has made a significant contribution to the education of court reporting students.

### II. NOMINATIONS

- To be emailed to Sharon Velazco, [scribe3159@aol.com](mailto:scribe3159@aol.com), Committee Chair for forwarding to the Arlene P. Sommers Award Committee.
- Nominations must be received no later than May 7, 2018.
- Nominations may be made by teacher, student, school administrator, or by any member of FCRA.
- Nomination to be in letter/resume format, accompanied by support documentation.

### III. SELECTION

Nominations to be considered by the Arlene P. Sommers Award Committee, and the selection is to be made by the committee with the approval of the FCRA Board.

### IV. AWARD

- Recommendation by the committee to FCRA Board to select the recipient.
- The recipient will receive, in addition to the monetary gift, a physical award.
- Recipient of this award and the school shall be notified no fewer than 30 days prior to the announcement/presentation of the award at the Annual Convention, if possible. If not, notification can be made by mail immediately following the Annual Convention.
- Free Convention registration for recipient.





By Michael S. Scire, RPR, CMRS  
FCR Online Associate Editor

## Student Corner: How Much Longer?

Ask any court reporting student what is the one question he or she dreads most and you will more than likely receive a similar answer. I remember all too well conversing with acquaintances all the while wondering how long it would take before the words would utter their lips, “How much longer?” In a perfect world, all of us would finish court reporting school in two years or less and we would write clean enough to caption for congressional hearings. The truth of the matter is that for most of us it took more than two years to get through court reporting school. For me, it took six years. I’m here to tell you, NO ONE CARES.

It was the spring of 1993 when my brother Richard and I enrolled in court reporting school. It was our mother who suggested court reporting. I thought it sounded somewhat interesting, but not enough to pursue it. Richard was rather adamant that he did not want to be a court reporter. While touring the Sarasota County Technical Institute facility prior to enrolling, the guidance counselor told us about closed captioning. Not realizing that was done by a court reporter, I was instantly intrigued. Richard, who had driven me to the orientation, reluctantly signed up at my persuasion. He was extremely hungry at this point and thought signing up for the program would be the fastest way to get to lunch. Little did he know that “hangry” decision would change his life forever.

At the time we enrolled, there were a total of 24 students in the beginning theory class. It didn’t take long for me to realize I wanted to be an official reporter. In fact, I was still in the theory class when I made that decision. The idea of being in the courtroom reporting criminal felony trials sounded intriguing.

By the end of the first week of court reporting school, two students had dropped out of the program. It was three months later at the end of theory class that the next two people would drop out. Once the speed tests began, students either dropped like flies or flew like them. Two of the students completed the program in 17 months, at which time I was still struggling at 80 words per minute. Out of the remaining six graduates, four graduated within three years and one in four, including my brother. I was the one left behind. Although I completed all of the academic classes within the first year, I continued to struggle with the speed classes as well as the medical dictation classes.

The class of 24 produced a total of eight graduates, including myself. It wasn’t until quite some time later that I realized how fortunate I was to have been in their company, as they all flourished into exceptional reporters.

At that time, students enrolled twice a year. Although I have made many friendships along the way during my time in school, several of which remain close friends, the revolving

door of students was quite discouraging. Those who started three and four years after I did were flying through the program and passing me before I even had a chance to learn their names. I often found a buddy struggling at the same speed I was, but while I fought my way through the year-long battle at 90 words per minute, my buddy dropped out. The struggle at 100 was somewhat better; however, my buddy at 110 also quit the program, as did my buddy at 120. The one at 140 passed me and went all the way to 225 while I continued to struggle at 160. Even with the encouragement of the instructors, it was still rather difficult not to progress and still try to be happy for those that did.

At the time I was a full-time student and I was also working 30 to 40 hours a week as an assistant manager in a retail store. I had very little time to practice and was often too tired to pull out that machine at 11 o’clock at night. I heard that dreaded question from acquaintances and friends to customers and co-workers where I worked. People who didn’t even know me would ask, “Aren’t you done yet?” I heard it all the time and never really knew how to answer without getting defensive. My explanation as to how difficult the program is often sounded as though I was making excuses.

My worst experience was when an instructor from another program at the school approached me in the cafeteria in front of my fellow reporting students and stated that he and some other faculty members had a bet going and wanted to know how long I’ve been in the program. His remark, of course, left me hurt and angry. I attempted to pacify his statement with a joke stating, “Who said I was a student? I’m on the payroll.” I found great comfort in the support of my fellow students, however. Some of which were more offended than I was. I also found great support in the instructors. Their words of encouragement were never sugarcoated, which I appreciated. They never doubted my ability. I am happy that they knew me better than I knew myself at times.

By the time I reached 225, six years after I started, the three steno classes of nearly 150 students were down to two classes with approximately ten students in each class. The photos of the graduates from previous years graced the walls of the classrooms. While that made some students jealous and discouraged watching the faces of those who succeeded staring back at them every day, others, including me, found it encouraging and inspirational. If they could do it, I was determined to as well.

I finally graduated on November 18, 1999. I wanted to shout from the rooftops “I did it!” For some reason, though, everyone stopped asking the question that I hated answering.

*Continued on page 11*

# EMILY MANN DISTINGUISHED SERVICE AWARD

The Emily Mann Distinguished Service Award shall be bestowed by FCRA upon a person who possesses exceptional qualifications and experience in the field of shorthand reporting, while contributing in a meritorious manner to the welfare of FCRA; and has served the Association in at least two (2) of the following categories:

- (1) Served the Association with active participation on committees and/or on the Board of Directors of the state association.
- (2) Contributed to the profession in areas of teaching, editing of publications or other contributions which have been designed for the advancement of shorthand reporting.

- (3) Contributed important books, papers or other written material dealing with the profession.
- (4) Contributed seminars for the state association for members, such seminars having received the approval of BAPR for continuing education points.
- (5) Aided in the advancement of the profession by working in liaison with The Bar, the media, judicial groups, and/or educational institutions.

Please submit all nominations to Sharon Velazco, [scribe3159@aol.com](mailto:scribe3159@aol.com) by May 7, 2018, to be awarded at the 2018 Annual Convention.



## EMILY MANN DISTINGUISHED SERVICE AWARD NOMINATION FORM

**Deadline is  
May 7, 2018!**

I, \_\_\_\_\_, hereby nominate \_\_\_\_\_  
to receive FCRA's EMDSA Award for the following reasons: (Please include criteria nominee has met. Use separate page if necessary.)

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Mail this form to Sharon Velazco, RPR, CLR, FPR, EMDSA Committee Chair,  
426 SW 26th Rd • Miami, FL 33129  
Email: [scribe3159@aol.com](mailto:scribe3159@aol.com) • **DEADLINE: MAY 7, 2018**

# Student Corner: How Much Longer?

Continued from page 9

It took that long journey for me to realize the obvious -- No one cares how long we went to school. As students, we are easily distracted with the pressure of passing tests instead of concentrating on our ability to learn and perfect our skills of reporting and producing transcripts. The high standard and expectation set out for us is to guarantee professionalism and competence. Nobody cares how long it took us to get to 225, but rather that we did, in fact, get there and can do the job.

Six years after I graduated, Richard and I were invited back to Sarasota County Technical Institute. This time it was to be awarded to the Alumni Hall of Fame, an award honoring distinguished alumni and contributors in the community. The award is for different programs offered at the school, not just court reporting. So it was a rather high honor to be acknowledged. Now our photos hang in the school

with other distinguished SCTI alumni. The biggest reward, however, is success. We are two of the four of the official court reporters in Sarasota County, Florida.

For those of you struggling like I did, I am proof that there is light at the end of the tunnel. I encourage you to find yourself a good support system and to celebrate your successes rather than dwell on your failures. It's not how long the journey takes that is most important, but how much you take with you when you get there.

This is my 20<sup>th</sup> year reporting, 15 as an official reporter. On the day of my graduation, my brother gave me a card that stated, "You scaled the mountain, now enjoy the view!" I continue to enjoy the view from the mountain I climbed, and it's a view I would have never appreciated if I didn't make it to the top.



## Expedite

By Eve Barrett, RPR, FPR, CLR

We are thrilled to announce the launch of **EXPEDITE**, an on-demand mobile app platform that is Uberizing legal support services. That's right, there really IS an app for that. **EXPEDITE** will change the way attorneys, paralegals and firm owners find, schedule and

pay for qualified court reporters, videographers, interpreters, mobile videoconference techs, notaries and couriers. **EXPEDITE** is a marketplace product that brings users and providers to one location...your cell phone. Join the **EXPEDITE** revolution today and start Expediting your world to unleash exponential benefits.

Using GPS-enabled smartphone technology, **EXPEDITE** will allow attorneys/paralegals/firm owners to hail litigation support expeditiously. In the first launch, users will have the ability to find and schedule providers both 'NOW' and 'TODAY', but we are building a 'FUTURE DATE-AND-TIME'-job-scheduling capability in an upcoming future upgrade. **EXPEDITE** is now offered in the Tampa Bay area, its hometown, with plans to roll out across America in the following months.

**EXPEDITE** was created by a frustrated Florida court reporter and firm owner. She discovered that although there are over 2.8 million apps available in the App Store, there are no apps to satisfy her firm's busy scheduling demands. Managing the schedule is crucial to success; however, the calendar is a constantly-moving target when attorneys' offices consistently call with last-minute litigation support needs. Because we know time is of paramount importance to attorneys, it became her personal mission to streamline the stressful process of handling last-minute requests on both the user and provider sides.

**EXPEDITE** is bringing modern technology to an antiquated service model, eliminating inefficiencies in the legal market and disrupting the status quo. Attorneys/paralegals/firm owners benefit from quick, convenient support providers, and service providers benefit from a centralized source of work with no marketing costs. In addition, **EXPEDITE**'s model creates efficiencies for providers to

scale their business in a way that was not available to them before. Those Monday-morning emergencies where your client realized they forgot to order a court reporter for a hearing or a videographer for a deposition no longer need cause undue stress. With **EXPEDITE**, attorneys, paralegals and firm owners will have instant access to the vast network of providers in their immediate vicinity. Once they've selected the service, location and time required, providers in the area will receive an instant notification that someone needs assistance. It's that easy.

For providers, **EXPEDITE** is the app that puts your skills to work. **EXPEDITE** allows you to accept assignments in your backyard, set your own hours, be your own boss and get paid expeditiously. Providers can maintain a relationship with a firm while supplementing with last-minute assignments on the side. **EXPEDITE** keeps 20% of the appearance fee only for jobs booked through the app, so providers are free to bill out post-production of assignments completed through **EXPEDITE** either on their own (100%) or run it through the firm with which they are affiliated (associated firm's commission), making it a win/win for everyone. Providers will also incur a \$2.99/month in-app subscription fee on the first job booked each month, no matter what day it falls upon. You **ONLY** pay this fee if you complete a job through **EXPEDITE** that month. Once a Provider signs on with **EXPEDITE**, they will receive the Trade dress to display that shows they are affiliated with an elite network in their area.

The app has a very simple design, but also incorporates a few unique features, to ensure a pleasant experience for both users and providers. **EXPEDITE** utilizes Twilio, an encrypted in-app text/call messaging service; Stripe, a secure payment processing service; and a five-star rating system that allows users to make more informed decisions when selecting providers. People are looking for a vote of confidence based on others in their community. Ratings provide transparency for the user and benefits the marketplace.

Download **EXPEDITE** from the App Store, Google Play, and visit our website, [www.Expedite.legal](http://www.Expedite.legal), today. Get on board or get left behind, but certainly get back to managing your calendar more effectively with **EXPEDITE**!



By Richard S. Scire, RPR,  
FCR Online Editor, FCRA Secretary



## Best "BOOT" Forward NCRA Legislative Boot Camp 2018



Know," hosted by NCRA Executive Director and CEO, Marcia Ferranto. Following her presentation, Matthew Barusch, NCRA State Government Relations Manager, educated the room and gave a baseline understanding of American politics and how Capitol Hill works. It focused on the nuts and bolts of how legislation is made, bills become laws, and to effectively advocate for your ideas. After lunch we hit the ground running with "The State of Court Reporting" presented by Chris Willette, NCRA President, and Matthew Barusch. During that session, we learned to effectively advocate for the court reporting profession. The presentation took us through what is happening at the state level. Following that, Cynthia Bruce Andrews, NCRA Senior Director of Certification and Education, along with Matthew Barusch, lectured on the value of NCRA certification and how to pursue and advocate such policies as state certification and licensure as a legislative goal in our own state. On the heels of the certification discussion, Connecticut Court Reporters Association Interim President, John Brandon, spoke about Connecticut recently losing its licensure policies through unfortunate legislation that affected other professions as well, and spoke about his work with his association's lobbyists in their effort to reinstate licensure for Connecticut's court reporters. A scrumptious snack of warm vendor-cart-sized pretzels with multiple cheese and humus toppings was an enjoyed break before Jacqueline Sly, Former State Representative for South Dakota, conducted a seminar called "Grassroots Lobbying." In today's legislative climate, we learned, we must incorporate grassroots efforts into our overall strategy to have the maximum impact. This session gave us what we need for our advocacy toolbox to help construct a full-scale grassroots campaign.

### THE SEMINARS

Each year, the National Court Reporters Association hosts a two-day long Legislative Boot Camp followed by a third day for boot campers to take their leadership and advocacy training, not to mention well-equipped confidence and power, to Capitol Hill to speak with legislators. The unique opportunity, provided by NCRA, includes intensive sessions on politics and grassroots lobbying, effective press communications, and what to expect when visiting lawmakers on Capitol Hill. Other sessions provided mock hearings and tips for promoting the profession to consumer groups, as well as how to testify before legislators.

While everyone is welcome to attend, FCRA, along with other state associations, has two slots reserved to attend Legislative Boot Camp. FCRA representatives this year were Michelle Smith, FCRA Treasurer, and myself, your FCRA Secretary. We were fortunate to have an additional Florida representative with us. Christine Phipps, who serves on the NCRA Board of Directors, was present and represented FCRA members very well.

The itinerary began at the Hyatt Regency in Reston, Virginia, on March 11, Sunday afternoon, at 1:00 p.m. The first seminar was "Goals of Boot Camp: What You Need to

Day two began with a delicious breakfast. It was supposed to be a continental breakfast but it was far more than that. I'm still dreaming about the bacon. Following breakfast, we heard from speaker, consultant, and author, Shelley Row, who was named by *Inc.* as one of the top 100 leadership speakers. Shelley Row, P.E., is an engineer and former government and association executive. Shelley's leadership work focuses on developing insightful leaders who know that data alone is not enough. Her work grows your bottom line through enhanced decision-making, motivation, and teaming. Shelley combines executive experience,

*Continued on page 13*

# Best “BOOT” Forward NCRA Legislative Boot Camp 2018

Continued from page 12



results from interviews with more than three dozen executives, and neuroscience to bring this powerful skill to you. Her work has been featured in *Forbes*, *Fast Company*, *HuffPost Business*, and *Smartblog on Leadership*. She studied with the NeuroLeadership Institute, is certified with the International Coach Federation and Business DNA Behavior, and is the incoming president of the National Speakers Association, Washington, D.C., chapter. She is the author of four books, including *Think Less, Live More: Lessons from a Recovering Over-Thinker*, which some in the group got to go home with as prizes, along with other giveaways. Ms. Row educated with her communication skills and how to handle situations when seeking decisions from staff, colleagues, bosses, or legislators, and taught us the neuroscience behind effective decisions that balance hard-line analytics with gut feelings. The session objectives included how to limit and stop overthinking by resolving the forces that freeze decision-making. She helped us discover proven techniques to slow a quick reaction before responding and regretting it and how to enable “aha” moments when we need them the most.

Following the break on day two, Attorney James C. Cool’s seminar on “Implementing Effective Programs in Your State” was about implementing effective programs and policies in our state and how it comes down to what we communicate to people of influence. In the session, Mr. Cool explained how to create our story through frames of varying political and moral philosophies to appeal to individuals of different political perspectives with the issues we want to bring to the table.

## THE MOCK MEETINGS

It was after lunch that we kicked into high gear with our mock meetings. Now was the time to put what we learned into action and to testify in front of a panel of senators. We were broken off into groups by state, which kept Michelle, Christine, and I together. Among the additional states in our

group were Colorado reporters, whom I had the pleasure of meeting at the NCRA convention in Las Vegas last summer. Each group was presented with the same scenario to lobby for funding in the form of a grant for a fictitious city in a fictitious state. We had one hour to put together our presentation and speech. Our group found meeting space in a neighboring room and got to work. Christine Phipps methodically typed a speech in the notes and facts we were throwing her way. It took us about 15 minutes to get our bearings before it started coming together organically as juices started to flow. With five minutes to spare, the alarm sounded... literally! The fire alarm went off in the hotel and we had to evacuate. The 20-minute interruption didn’t interrupt our flow, however. We were given 10 more minutes, which we stretched into 15, and then we headed into “the Senate.”

We walked into the senate, which was our boot camp room in the hotel that had been rearranged, and waited for our group to be called. There were seven groups in all and



we were group two. As soon as the gavel was hit declaring time was up for group one’s presentation, they were critiqued. The idea of that I think made us more nervous than the actual presentation. Our group was called next and we took center stage. Christine was our designated speaker and she spoke beautifully! Our notes turned into a profound speech that was stellar, if I do say so myself. Thanks to Christine’s tablet and teleprompter app, she was able to read it as if she had it memorized. As the “senators” asked us the hard questions about the grant and about the court reporting and captioning professions, the microphone was passed to each of us individually to answer direct questions. We all answered gracefully and wisely. Our criticisms were few and minor. Now we were

Continued on page 14



# Best "BOOT" Forward NCRA Legislative Boot Camp 2018

*Continued from page 13*

ready take the real \$1 million grant for court reporting schools to use for captioning to Capitol Hill!

## CAPITOL HILL DAY



We were given schedules at the outset. Some boot campers were paired with campers from other states and others were on their own! Michelle Smith, Christine Phipps, and I were partnered together as the Florida representatives. Everyone had meetings throughout the day. We were to go our separate ways to tackle our schedules until finally meeting at the Library of Congress at 4:00. Our time was going to be cutting it close as our schedule with Florida representatives was as follows: Our first appointment was scheduled for 11:00 a.m. with Danielle Houser, Legislative Correspondent to U.S. Representative Neal Dunn, at the Cannon House Office Building. Our second meeting was with Taleen Mekhdjvakian (I still can't pronounce her name) at the Office of Senator Bill Nelson at 1:30. Senator Nelson's office was listed to us as being in the Russell Building. It wasn't until we got there that we realized it was the wrong place and it wasn't until we got



to the right place that we learned the wrong time was also listed. Our third and final meeting was with Eduardo Sacasa, Legislative Assistant to Senator Marco Rubio at the Russell Senate Office Building.

Everyone met in the lobby of the hotel at 6:45 a.m. so that we could all get on shuttles to the metro and make it to Capitol Hill together for a group photo. Some people were without jackets, but the Floridians were freezing! We were advised to wear comfortable shoes, which men don't have to worry about too much. Christine's slippers matched her outfit as well as her heels did. Following the group photo, we found a Dunkin Donuts to have coffee, stay warm, and talk about strategy.

Our first meeting went well. Ms. Houser didn't ask too many questions but we educated her about our profession and even told her about our efforts working toward a state certification. The first meeting got us over our nerves. We met the other groups for lunch before heading to the second meeting. We should have known the second meeting was in the wrong place when our Colorado friends were heading to the same place. The long marble corridors and underground tunnels were hard on the feet but we headed to the scheduled destination in hopes Senator Nelson's Office was where the schedule said it was. Luckily, each office down the hallways are adorned with state flags. When we saw the Colorado flag outside of what we thought was his office, we knew we were going to have to run elsewhere, especially since there weren't any Florida flags around and we had 15 minutes to spare. A quick Google search got us in the right direction. We raced back from where we came through the underground tunnels and we made our way to the correct building. Those underground tunnels are a lifesaver since each building is equipped with security and metal detectors and, thus, long lines. Learning our meeting was an hour later than the schedule stated made us relax. We nestled in comfortably on the soft chairs and sofa in their office. By the time Taleen, as she told us to call her, came for us, we were slipping into the valley of fatigue from the long day's adrenaline rush. The second meeting went better than the first one. Our pitch for the grant ended with a brainstorming session on other legislative goals we could pursue. I don't think Taleen was expecting that, nor did we, but we found the meeting very helpful. She was super nice!

Our third and final 3:30 meeting with Marco Rubio's office was going to be cutting it close to get to the Library of Congress by 4:00. To add to the pressure, the Library of Congress was shutting their doors early that day, so time was of the essence. We met with Eduardo Sacasa a few minutes early but the meeting ran the longest. He knew who court reporters were but didn't realize who captioners were. He had lots of questions and seemed genuinely interested in our profession all around. At the end of each meeting, we asked

*Continued on page 15*



# Best "BOOT" Forward NCRA Legislative Boot Camp 2018

Continued from page 14



what, if anything, we did wrong since this was our first time doing this. While they all said we did great, Mr. Sacasa's final comment was my favorite of the day. He said our only mistake was that we were only asking for \$1 million. We should ask for five and hope to get two. I then joked that there was supposed to be another zero at the end of the 1,000,000 number. We all laughed. It was worth a shot. He didn't think our grant request was unreasonable. In fact, he took notes to follow up and seemed eager for us.

With the meeting's conclusion just before 4:00, now it was time for another cardio workout to the Library of Congress. Time was against us.

## THE LIBRARY OF CONGRESS



We raced to the Library of Congress just as the security guard was closing and locking the door. We begged our way in explaining we have a tour with the rest of our group. We were told ahead of time that if we were late, we would have to wait for the very end and miss the excursion. Our timeline could not be helped but we made it just in time!

I couldn't wait to see the Library of Congress. The building was more beautiful than any photograph of it I had ever seen. I have personal history there. For one, my mother's

autobiographical book is there, *The Other Side of the Menu*. Additionally, a manuscript my twin brother and I wrote, *Raging Tides*, a work of fiction, is also there. I also was looking forward to the Veterans Project. I am a five-year angel with the National Court Reporters Foundation and I serve on their committee. All in all, this trip was personal to me on so many levels!

This is not a small building! A guide, who met us at the gift store, took us on a 15-minute hike to our tour guide. Our tour guide was both knowledgeable and delightful. She directed us to elevators whenever possible but I always opted for the stairs. We sit for a living. When else am I going to get in 20,000 steps within one day? The opulent and palatial library was stunning to say the least. The murals were breathtaking and the climb up and down the marble stairs was well worth the exhaustion.



After the action-packed day, we headed to our next stop after another hike through the Library of Congress to where our wine and cheese reception was held, where we were to bear witness to The Veterans Project.

## THE VETERANS PROJECT & THE NATIONAL COURT REPORTERS FOUNDATION

Shortly after getting to the top of the Library of Congress, while I stood in the rotunda, nothing could make me more amazed, or so I thought, until Veteran Rob Jones caught my attention. I knew I was in the presence of someone truly amazing and suddenly the thought of getting to hear his story was what was amazing to me the most.

We arrived into the cheese and wine reception. Bar height tables were in the back of the room with tables of cheese, humus, fruits, and crackers. A bartender was set up for wine and beer. On the opposite side of the room were chairs in rows facing a podium and chairs set up for Chris Willette to interview Mr. Jones, with one more seat for the court reporter to capture his story for the Veterans Project. This



Continued on page 18

By Amy Marie Yarbrough, Vice President



## Deaf in a Hearing World - The ABCs of Deaf Culture

**F**ifty years ago, if you wanted to visit a deaf friend, you had to drive to their house and wave in the window, perhaps even peak through the front door to announce your visit. Now there are doorbells that light up.

If you were a deaf child with hearing parents and they insisted you learn to talk, you might have attended a school where sign language was not permitted and smacking hands was the reinforcement of your speech therapists, thankfully no longer an accepted practice.

Try silencing your television and reading lips. Can you understand what's being said? Now turn on the captions. Are you able to watch the scrolling text *and* focus on what's happening? Feeling what it's like to be deaf, an easy experiment, is a quick way to garner some extra compassion and accessibility-mindedness if you're into that sort of thing.

There are many elements of deaf culture, some more well-known than others. Below is a compilation of the greatest hits.

- American Sign Language (ASL): A bona fide language with its own word order and grammar, utilizing hand motions, space, and facial expressions. If you are working closely with deaf consumers who sign, make the effort to learn the ASL alphabet and a few signs like "thank you" and "you're welcome." Your "sign name" can only be given to you by a deaf person.
- Do not assume every deaf person knows sign language. According to the National Institute on Deafness and Other Communication Disorders, 90 percent of deaf children are born to hearing parents. Where resources are limited, families may not learn ASL or develop their own form of communication. Children may also have a lack of resources as deaf schools close and they are mainstreamed in public education systems. Late-deafened individuals may utilize hearing aids or cochlear implants in lieu of learning to sign.
- Audism: The term for discrimination and stigma experience by the deaf. Add it to your dictionary. It may display as *oddism*.
- BiBi: Bilingual-bicultural deaf education model where ASL is the first, native language. Spoken and written are incorporated as the second languages. Sign language is the primary method of instruction, and the cultural component exposes students to the deaf community.
- CODA: Child of Deaf Adult
- Cochlear implants: A thin piece of metal is surgically implanted into the cochlea. A detachable sound processor is held onto the head with a magnet, which is implanted under the skin. Cochlear implants stimulate the hearing nerve with electricity and do not imitate perfect hearing, sometimes being described as sounding robotic or electronic. Once implanted, additional time is spent with audiologists to maximize the brain's understanding of sound. Bluetooth compatible.
- Communication: Modern advancements in technology give the deaf population connectedness like never before. Text messaging and FaceTime have revolutionized interpersonal communication. Video chat technology allows deaf friends to sign to each other live.

- Cultural/medical: Many deaf people see their deafness as a cultural condition, not a medical one. As such, the appropriate term to use is *hard-of-hearing* as opposed to *hearing-impaired*.
  - DailyMoth.com: Popular website and social media destination spotlighting deaf businesses and current events in sign language. Creator is a FL School for Deaf and Blind alumnus.
  - Deaf education in Florida: The Florida School for the Deaf and Blind (FSDB) is a sprawling historic campus located minutes from the beach in St. Augustine. Local students commute; others are boarded in dorms, taking buses home on the weekends. Situated on the Intracoastal Waterway, FSDB boasts kayaking and a wide range of sports, as well as theatre and other performing arts. It is the only school of its kind in Florida, serving both deaf and blind children.
  - Gallaudet University: Deaf college chartered by President Lincoln, located in Washington, D.C. The famous Deaf President Now movement, wherein students protested the selection of a hearing president when no deaf president had ever served, was the catalyst for the Americans with Disabilities Act.
  - Hearing aids: Amplify and boost sound. Surgery not required. Bluetooth compatible.
  - Lip reading: Many deaf and hard-of-hearing people read lips, but this is not the most effective form of communication. It is polite to maintain eye contact, do not yell, mouth words slowly and deliberately, and avoid looking away as much as possible, as it can be distracting and considered discourteous.
  - Long goodbyes: A cultural norm. Before videoconferencing and text messaging, members of the deaf community might have only interacted at deaf events. Beautifully described by [deaffriendly.com](http://deaffriendly.com), "Time with deaf friends is rare and savored. It is hard to say goodbye to people with whom we deeply relate."
  - *The Silent Child*: Set in rural England, the story of a profoundly deaf young girl who transforms when a social worker connects her to the world. A must-see, [thesilentchildmovie.com](http://thesilentchildmovie.com).
  - Thomas Edison: The most prolific American inventor ever, holding nearly 1,100 US patents. Edison became profoundly hard-of-hearing around age 12. His inventions include the motion picture camera and phonograph. His wife tapped Morse Code on his legs when they enjoyed theatre together.
  - VRI: Video relay interpreting: A fee-based, on-demand interpreting service. Deaf and hearing individuals are in the same room with the interpreter appearing by video offsite. Used in instances where a live interpreter is not available. Paid for by the requesting agency.
  - VRS: Video relay service. A free service for the deaf. Places calls between deaf and hearing callers in two different locations. Funded by the Federal Communications Commission (FCC).
- Most importantly, deaf people are not hearing people who can't hear; deaf people are people. Please treat them kindly!



By Michelle Smith, Treasurer

## Covering Remote Depositions

Choosing to take depositions remotely is increasing at a fast rate. There are so many choices to take depositions now other than the old school way of everyone physically being in the same room at an attorney's office, court reporting firm or at a doctor's office. Now we've got more choices than ever in how to produce the transcript of the witness. There is the telephone deposition of course and then we've got video conferencing but more and more requests to conduct depositions via web apps is happening. Some of the web apps you may have worked with that are popular for depositions are LiveDeposition, Skype, Zoom, WebEx, Gotomeeting, Googlehangouts and Joinme.

Virtual law offices and our clients practicing virtually are becoming more and more the norm. I believe web apps are going to be the preferred choice of taking depositions in the next decade. The world is going virtual, let's face it and we are just participating at the beginning of this virtual world. It used to be the exception and not the rule in law offices to use remote means of taking depositions...now it is more of the other way around.

We have laws for telephone depositions and we have laws for video depositions as far as notice, the oath and the witness. We will soon in the near future have video conferencing laws and "virtual" deposition laws or laws pertaining to the use of technology relating to remote depositions. We are just moving faster in technology than legislation can craft and make the laws for our industry.

Here are a few quick tips for remote depositions.

- ➔ The oath – The deponent has to be sworn by a person who is authorized to administer the oath in the deponent's location and who is present with the deponent with the exception of police officers, we can take their testimony without being in physical presence of the law enforcement officer.
- ➔ Make sure you have support personnel on hand for technical issues that may arise and can help you at a moment's notice.
- ➔ *Conduct a Dry Run* – Always test the internet based platform or web app out at least 24 hours prior to the event using all the same locations and equipment that will be used for the actual video conference.

- ➔ Backdrop. Make sure your background is professional or not distracting or interfere with what the viewer is seeing.
- ➔ Pause! Yes, we all know this one. The witness should be instructed to wait a second or two before answering a question in case an attorney wishes to lodge an objection, and the taking attorney should wait a second or two before beginning the next question as well. Maybe a nice little reminder before the deposition starts is a suggestion.
- ➔ Always divulge before swearing the witness in who is in the room to counsel on the other end.
- ➔ Inform counsel when certain people are entering or leaving the deposition room. Remember we are required to show all people present and when people enter and leave the room.
- ➔ Documents. Advise counsel at the time of booking that if documents will be used during the deposition session that are needed at the other remote location to send them as soon in advance as possible or emailed to the court reporting firm and make sure you have them ready and available prior to the deposition beginning. There are also many new document-sharing platforms on the market to choose from.
- ➔ Check your settings on equipment prior to deposition and know where your settings are on your equipment you are using.
- ➔ Internet connection. Hopefully your firm has the fastest internet connection available on the market because our service we provide depends greatly on a good quality internet connection.

In conclusion, remote depositions are only going to increase in popularity as our world continues to advance toward a virtual world, even in the court reporting industry face-to-face interactions are no longer going to be required. Anecdotally, we have already begun to see other industries choose this process of face-to-face communication and we should fully expect to adopt this as our new means to take depositions in the next decade.

*Michelle Smith is a court reporter for the firm Stewart & Shoman in Panama City and contributed this article.*



# Best "BOOT" Forward NCRA Legislative Boot Camp 2018

*Continued from page 15*



was a sample of the project to demonstrate to the group. His story had just previously been taken. While this was a chance for us to see the project in action, it was so much more special than a demonstration.

B.J. Shorak, Deputy Executive Director at the National Court Reporters Foundation took the podium. B.J. and I go way back. We have the same friends right here in my town of Sarasota. She has worked tirelessly for NCRF, which is why I am now passionate for the foundation. She introduced the crowd to Rob Jones. The parties took their places and the Veterans Project began. At the conclusion, when we were asked if anyone had questions, I had only one. I asked Mr. Jones if I could shake his hand. He obliged with handshakes and photos. In the weeks ahead, he graciously agreed to contribute to this magazine.

At the conclusion of the interview, the reception resumed.

## Announcing...



Dear Reporting Friends:

I am thrilled to announce that after more than a decade of focusing on the day-to-day operations at U.S. Legal Support, I have been promoted to a brand-new role – Senior Vice President, Court Reporter Relations. U.S. Legal Support recently announced the acquisition of an online court reporting career training platform – StenoTrain – so in addition to developing advanced training and education

for our existing reporters, I will be leading a team devoted to raising awareness and promoting the profession with the goal of encouraging students to pursue court reporting as their chosen profession.

Our mission is a very critical one – To provide our students

I, on the other hand, had to go. Board work is never done. I, along with my Florida and Colorado cohorts, bee-lined it for the metro. Michelle and I had an FCRA conference call with board members in a half an hour. I knew cell service on the metro would go in and out with the tunnels. We made it through the last tunnel just in time to phone in. The call lasted long enough for me to finish the metro ride, Uber it to the hotel, go up to my room to freshen up, and make it down to the hotel lobby bar to get a martini. My phone calls wrapped up just in time for court reporters to join me for drinks where we could unwind.

My job was finally done... or at least until my 3:00 a.m. ride to the airport and a plane-deicing delay in the midst of the snowfall during my layover. Home sweet home was never sweeter!

with the best online educational platform available today in our industry! StenoTrain's programs are facilitated by NCRA credentialed instructors, experienced court reporters, and industry experts. We offer a range of programs including: judicial or deposition reporting, CART, broadcast captioning, scoping and audio/video transcription. In addition to state-of-the-art training, each student benefits from personalized coaching and mentors throughout Theory, Speed Building, their Internship and beyond!!

If you'd like to learn more about StenoTrain, or more importantly, encourage someone to consider a career in court reporting, please visit [www.stenotrain.com](http://www.stenotrain.com) or email me at [jtgaul@uslegalsupport.com](mailto:jtgaul@uslegalsupport.com). The shortage of stenographic court reporters nationwide is very real -- and so are the opportunities for those who want to enter into this amazing profession that has been so good to so many of us!

Thank you for your support and dedication to the future of the court reporting profession!

Jennifer Gaul



By Christine Phipps, RPR, FPR, LCR (TN/ NJ)

## Christine's Corner: Searching the Library of Court Reporting... Google

When I began reporting “Four score and seven years ago” – well, not 87 years ago but nearing 25 years ago, my biggest dream was having my very own library filled with the entire Southern Reporter, 2d series (\$14,985 for sale right now on Thomson Reuters), aeronautical, maritime, Physician’s Desk Reference, Merck Manual, the list goes on. I would have made my boys share a room to have a library and could have provided lots more writing material for them when they got into trouble. Yes, as a mom, I doled out writing assignments based on the wrongdoing; yet another telltale sign I was meant to be a stenographer. Furnishing a library full of books was that of a pipedream as a new reporter that just bought a writer, computer, and software, but it was always free to dream.

See, when I started reporting, as many of you will relate – but newer reporters have no idea – if we were lucky enough the reporting firm we worked with had somewhat of a decent library, but searching case names and cites involved knowing where the law libraries were – took later on in years to make lawyer friends that had their own law books in-house that they would let you sit in and transcribe – oh, and that’s if you were lucky enough to have a laptop. When I started, reporters had these big machines that looked like those boxes you put your head into at the eye doctors, and sometimes had to wait for one to become available in order to transcribe.

Now as a firm owner, when I find a reporter that has “snow mask” in a transcript when it should be Snowmass, it absolutely boggles my mind. As I spent my time as a single mom with two little kids trying to find libraries, calling nurse friends for medical information – thank goodness I put myself through college working in an emergency room – to not have spent three seconds to put that term into Google and doublecheck what you obviously don’t know speaks volumes as to laziness and the value one places on their professional reputation. Then I think is that even fixable?

Google is the largest library that may ever exist and it’s free! I would never have imagined this being our reality back in 1994.

As modern-day reporters, if you’ve ever needed an answer to a question, chances are you’ve been one of the two trillion searches that Google sees annually. But have you ever wondered if there’s an easier way to find the answers to your questions? Google Advanced Search is the perfect option, but not all Google users are aware of its many functions or even where it is. Underneath the Google bar where you have probably clicked on “Images” before, to the far right is “Settings.” Click on Settings and there is a page titled “Advanced Search.” Here you can easily narrow

search results. Also, by typing a specific function before a search term in Google, you can quickly and easily find a simple answer to your question without sifting through irrelevant search results.

Here’s an Advanced Search Cheat Sheet of functions to pull up rad information – I know, dating myself again. Happy searching!





By Donna Kanabay, RMR, CRR, FPR

# The Diamond Vault: Part II, 1976-1981



In the '80s, court reporters and FSRA faced many technological innovations and challenges, some old and some new. All of them played a part in taking our profession and our association forward to where we are today.

As we left the first half of our second decade, we learned that Editor Jack Besoner turned our little mimeographed/stapled "magazine" into a real magazine, glossy paper and all. The magazine was to undergo further growth and changes as different editors each took their turn at putting their personal stamp on it.

In the March-April 1976 issue, we had our first Who's Who article, which featured Edward C. Lawrence, president of FSRA for the 1968-1969 term.

The July-August 1976 issue featured Doris Mauldin for our second "Who's Who" column. Doris was a charter/founding member of FSRA in 1961 and served as president for the 1972-1973 term. She went on to become the NSRA president for the 1978-1979 term. She died in 1988. Frank Sarli wrote her In Memoriam for the magazine, titling it, "What A Joy She Was."

As a personal side note, looking over the magazines

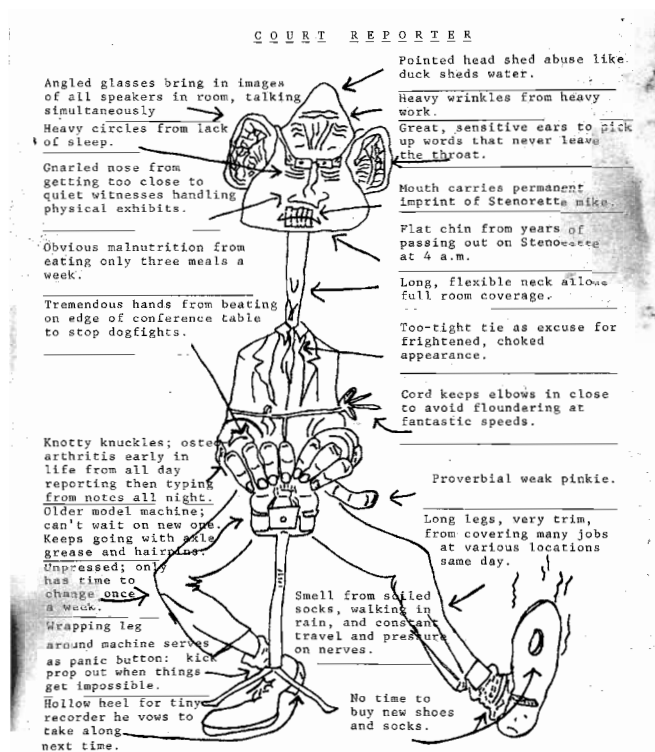
from 1976 is a whirlwind trip back in time for me. 1976 – December 6, 1976, specifically – is when I "officially" became a court reporter, under the strong, stern and inspiring tutelage of my parents. Even after "sitting in" with my dad in felony court for months, I have to say that that courtroom seemed to stretch infinitely into the distance the first time I sat there by myself. I remember a sense of almost tunnel vision as I nervously waited for the judge to take the bench. I don't think I've ever felt more alone in my life, to this day. I suspect that every one of us can relate to that mixed feeling of excitement and terror.

As I wandered through the magazine, I came across this interesting tidbit, from an article by Emanuel Grodsky, about reading back. "One of the Circuit Judges in this jurisdiction told me recently that not only he but many of his colleagues, upon noticing a new reporter, request a number of questions, answers or remarks to be read back by the reporter, to make certain that he is competent." "It is saddening to relate that although the reporter may have written copper-plate notes, but because of lack of reading practice, he had failed to make a favorable impression." Take note, students and beginning reporters! It's so much easier for us to read back nowadays than back in the day when we had to fumble with paper notes! (With the caveat that we actually have to get it down, and not rely on our audiosync to save us later.)

Dade County had the beginnings of a war, where the Officials persuaded the chief judge to sign an order decreeing that the Officials will do all State Attorney and Public Defender depositions. The freelance reporters in the county immediately formed the Dade County Freelance Court Reporters Association to combat the substantial loss of income they were facing. The Miami News published an article about it, "Patronage vs Competition: Four Firms Get Court Bonanza."

The September-October magazine had a reprint of a Wall Street Journal article, "Shorthand Reporters Fear Use of Computers to Speed Their Work Will Cut Status, Income." It begins, "Life has never been easy for shorthand reporters. There was a time when reporters whose notes contained errors were punished by having the nerves in their fingers severed. Rulers in the Middle Ages considered the art of shorthand diabolical, banned its practice, and destroyed its symbols."

At the October 1976 convention, held at the Turtle Inn in Atlantic Beach, President Charles Brandies handed off to Carol Causseaux, and Jack Besoner took over as editor of the magazine. The minutes of the Executive Committee board meeting reflected discussions about changes in the process



Continued on page 21



# The Diamond Vault: Part II

Continued from page 20

of selecting the board of directors (creating a Nominating Committee,) issues about trying to get firm direction from Tallahassee on notes retention, and the continued desire to make the voluntary Florida CSR mandatory for reporters in Florida.

The new Nominating Committee procedures were solidified in the February 1977 minutes. There had been some ugly charges of favoritism in the process of choosing our officers and board (referred to in the minutes as “chronic inbreeding,”) and the process became more transparent and orderly. At the 1977 annual convention, the procedure was put before the membership for a vote, and one member, Morgan Morey, wanted each candidate to be required to have, first, three endorsements, then 10. His motion did not pass.

The slate would be published in the magazine before convention and voted on at the business meeting. (I’m unable to glean more detail at this point, such as whether there was an interview process or the specifics of that, except a reference that members were allowed to comment on the candidate. Today, the interview process is confidential, with what is jokingly referred to as “The Cone of Silence,” so that candidates are able to speak freely without worry of their comments or opinions being circulated outside the committee.)

Again, on a personal note, the Who’s Who in the January-February 1977 issue of the magazine was interesting to me as it was about Jim Swain, who was the Official in Pinellas County that my parents worked for when we first came to Florida in the early ‘70s. Jim was a founding member of FSRA and served as president for the 1974-1975 term. Jim was a pen writer, and my dad once told me that Jim joked that while Jim could read dad’s notes, dad couldn’t read Jim’s.

In 1977, we were informed that our voluntary CSR law would be sunsetted, thus marking the end of that era of Florida “certification.” 1973-1974 FSRA president James Snow died. The Florida Supreme Court allowed television cameras into the courtrooms, creating quite a stir.



And we had reached an unprecedented goal of roughly 500 members. Which is about how many members we have now. How sad is that? (Our highest numbers were in 2011, coincidentally our 50th anniversary

year, with 757.)

Frank Sarli became president for the 1977-1978 term at the annual convention in Daytona Beach. Frank died in

1995. Liz Starkweather wrote his In Memoriam.

His friend and colleague Jack Boenau related this story to me several years ago:

“Anyone who knew Frank Sarli remembers that he had a keen sense of humor. I decided to do something memorable for Frank’s birthday in about 1974. I arranged with the chief judge and



a lead prosecutor to have Frank ‘arrested’ on his birthday. The Sheriff of Orange County came into our offices, placed Frank ‘under arrest,’ handcuffed him, and walked him down to the courtroom, with all of us deputy officials not far behind, trying to hold back the laughter. Frank had to raise his cuffed hands as the oath was administered. Unfortunately, we didn’t have a court reporter, that I recall, so I don’t have a record of the short dialogue that took place, but it ended with a pronouncement of Happy Birthday! Frank really didn’t know it was a set-up until that point, and I started taking pictures.”

I don’t think I’ll ever forgive Jack for not having arranged for one of the reporters to take it all down for posterity! But at least we’ve got the pictures.

Frank and the CSR Task Force attended a meeting in Tallahassee in an effort to stop the sunseting of the CSR law. As we all know, all of our efforts failed, and the law was indeed sunsetted.

In this world that we live in with instant round-the-clock news and Court TV, it’s astonishing to think that back in 1977, the experiment of allowing TV cameras in the courtroom was so controversial. H. Allen Benowitz wrote an article about his first experience with it in a murder trial, titled, “The Curiosity of Courtroom TV.” Allen was Chair of the NSRA Committee on Videotape Recording. “In spite of some production problems, in the eyes of the public, there is a positive aspect from the experience: An opportunity to view a real-life situation, in unedited form, complete with social problems, poverty and crime.”

Doris Mauldin was installed as president of NSRA at the national convention, and our dear Emily Mann was named a Fellow. Jerry Jordan placed second in the national speed contest. Our president, Frank Sarli, presented seminars. Florida was well-represented at national that year!

Another item of note in 1978 was the proposed Rule 2.070, which not only laid out standard transcript formatting, but sought to regulate freelance rates. Included in the suggested transcript formatting was changing from the 9-pitch to 10-pitch. (For you young’uns, that was during the days of the IBM Selectric. Reporters had a special model

Continued on page 22

*Continued from page 21*

for 9-pitch spacing. Don't ask me why. That's just the way it's always been...) Oh, they wanted transcripts to be single-spaced too. Gah! Frank Sarli, on behalf of FSRA, submitted comments on the proposed rule to Attorney Henry Trawick.

Our annual convention in 1978 took place on a cruise to Nassau aboard the S. S. Emerald Seas. While berthed in Nassau, our members attended a seminar on punctuation by Emily Mann. (How wrong is that??) "Business was conducted and concluded rather quickly, as everybody was anxious to eat again."

On the convention cruise, our guests were the Honorable Arthur J. England, Jr., Chief Justice of the Florida Supreme Court, and John F. Harkness, Jr., Court Administrator. Both wrote letters of appreciation about having spent the time with us, but I really like what Mr. Harkness wrote: "I discovered that I know very little about the day-to-day problems that court reporters have. Through my discussions with them, I believe that I have become more sensitive to their problems."

Frank Sarli passed the gavel to Lillian Balboni at the Saturday night banquet. And we awarded the very first Emily Mann Distinguished Service Award to Jack Besoner.

"Emily is not convinced she had made any great contributions to the reporting profession. She is only doing what she enjoys, and to honor her is a difficult task. NSRA honored Emily by bestowing a Fellowship. Our board has gone one step further, and created the Emily Mann Award. Yes, Emily, you do deserve it. We are all very proud of you and grateful to you."

Paula Laws took the reins as editor of our magazine, and served in that capacity until 1984.

Our first elected president, Clifford Gafney, died in 1979. Cliff served two back-to-back terms, 1961-1962 and 1962-1963.

The State Court Administrator advised FSRA that the Supreme Court was going to look at the question of certifying official reporters. Rosie Sclafani chaired the Committee that would work on this with OSCA (sometimes jokingly referred to internally as "Oscar.")

At the annual convention in Lake Buena Vista in October of 1979, Gayl (Hardeman) Varallo became president. Probably the biggest news of the entire year was that FSRA is all grown up now: We've hired our first professional Executive Director to handle the day-to-day business of running a growing association!

Past president Doris Mauldin was awarded our second EMDSA.

A landmark decision comes out of the 4th District Court of Appeals, directing that the Designating party on an appeal is required to furnish (and pay for) a copy to the opposing party. (As we know, this was later changed many years later, to allow the Designating party to furnish their own copy to the opposing party. But it was nice while it lasted.)

A survey was sent to all circuit judges and court administrators regarding certification and the responses were interesting. 43 answered affirmatively, and 14 opposed.

Some examples:

"Reporters should be certified to avoid time, trouble and expense of weeding incompetents via trial and error methods." (Circuit Judge 6th Circuit)

"Reporters should be certified in criminal proceedings only because of the importance to both parties that the proceedings be accurately reported." (Circuit Judge 9th Circuit.)

"I feel reporters should be just qualified, which is the concern of their employers." (Circuit Judge 17th Circuit.)

Our annual convention was held in Key West, and Joe Troiano became our 1980-1981 president. Immediate past president Gayl (Hardeman) Varallo received our third EMDSA.

After years of problems on the issue of notes retention, the Supreme Court Committee for a Study of Court Documents disposal finally proposed a Rule of Judicial Administration to lay out the retention period for various types of proceedings.

In March of 1981 we held an "unprecedented" one-day seminar in Southeast Florida, at which 16 new members were signed up!

In Pennsylvania a panel of federal judges conducted an experiment, using Bell Telephone's "Picturephone" equipment. "The judges were able to observe themselves on TV monitors while at the same time observing and questioning the lawyers in the cases remotely."

The United States Supreme Court ruled that a Florida plan that permits television to cover criminal trials, even when the defense objects, does not automatically deny the defendant's right to a fair trial.

To those of us working in this technological age, this all seems so quaint. I'm struck by the same sense as I read through our magazines from this era, where CAT is still so new that studies are being conducted as to its use and efficiency. The National Center for State Courts published a report in 1980 that stated that their survey found that "there are currently about 230 CAT systems in about 175 sites."

As we entered the year of FSRA's 20th anniversary, the association had grown into a truly professional operation, interacting with the state courts administrator and the Florida Bar; we hired an executive director to take over the administrative duties; our magazine grew and flourished and received accolades from state and national leaders all over the country, many of them asking permission to reprint various articles. CAT was still a novelty; our profession still had pen writers in its ranks; and the ever-present threat of ER always loomed over us. Videotaped depositions and cameras in the courtroom were still new enough that they were looked at with not only curiosity, but some level of trepidation.

What trials and tribulations will await us in our Third Decade! Stay tuned to find out! And don't forget to check my Dropbox link for the video scrapbooks of each installment!

<https://www.dropbox.com/sh/9a7gIgi2rmbstzq/AABALiWtXA5MR12L9k1b3NB9a?dl=0>

Continued from page 22

## Spotlight's On . . .

### ROSIE SCLAFANI FSRA President-Elect



Rosie Sclafani, FSRA's President-Elect, is truly the "Reporter's Reporter". When she isn't working, she's enjoying her favorite hobby — working!

Rosie is a true professional in every aspect of the reporting field and is constantly striving to improve her knowledge and skills. She rarely misses a local, state or national convention of any aspect of reporting. As a result of her thirst for self-improvement and fulfillment, her vast knowledge is continuously solicited by others.

Beginning her career as an Official in Bartow, Florida, Rosie later was appointed as a Federal Court Reporter in Tampa. Today, Rosie has two very busy offices, one in Lakeland and the other in Tampa, and still manages to devote time to her first love — actual reporting. Rosie's secret aspiration is to report before the United States Supreme Court, and those of you who know her will agree that she will more than likely realize this goal.

Rosie was among the first in the state of Florida to specialize in video taping depositions and computer aided transcriptions. She has continued to keep abreast of all the latest developments and currently has a computer in both of her offices.

A member of the Florida Shorthand Reporters Association since inception, Rosie has always been a very active and participating member. Her involvement on committees, as both a member and a chairperson, and as an officer has resulted in the development of many rules and regulations by which Florida court reporters currently operate — rules designed for quality in reporting.

With Rosie Sclafani on the side of the professional court reporter, you can rest assured that every effort will be made to upgrade, maintain and promote the image and integrity of the "keeper of the record".

Continued on page 24



Continued from page 23

## Noteworthy

A panel of federal judges in the Third Circuit, as part of an experiment, recently heard oral arguments in Philadelphia while the lawyers presenting their cases were in Pittsburgh. Through the use of the Bell Telephone Company's equipment called *Picturephone*, the judges were able to observe themselves on TV monitors while at the same time observing and questioning the lawyers in the cases. Circuit Judge Joseph F. Weis, Jr., a member of the panel trying out this new procedure, also assisted in setting up a Court of Claims experiment in 1975 — sponsored by the ABA Appellate Judges' Conference. Chief Judge Collins J. Seitz, commenting on the procedure after the arguments, said that they in the Third Circuit were "interested in anything that appears to cut down costs and expedite litigation."

## The Curiosity of COURTROOM TV

**H. Allen Benowitz, Chairman,  
NSRA Committee on Videotape  
Recording**

### "ZAMORA GUILTY OF MURDER"\*

The potential of cameras in the courtroom has been dramatized recently in Florida. An example of one such courtroom TV experience is the murder trial of *STATE OF FLORIDA v. RONALD ZAMORA*. It involved the alleged murder by 15-year old Ronald Zamora of his next-door neighbor, Eliner Haggart, an 82-year-old woman, following a theft at her home. After she threatened to call the police, he shot and killed her, by his own admission.

The basis on which the defense justified Zamora's actions is the influence of television intoxication, and it is ironic that the powers that be afforded nationwide coverage, in light of the premise that the verdict was not in as to whether, in fact, TV intoxication was a decided factor.

This left young viewers around the country vulnerable to the exposure of its possible influence and sensationalizing a murder of this sort may not, I feel, have necessarily served as a deterrent factor.

The verdict in, philosophically, the TV intoxication defense was found to be baseless by the jury; technologically, educational TV's coverage was found to be not obtrusive or disruptive.

Although the one-year experiment continues, it is not without its share of difficulties. Due in part to court guidelines, only restrained coverage has been possible. Despite special lighting installed to eliminate glare, two microphones positioned in the courtroom, with a shotgun mike attached to the pool camera, color tones and audio quality were poor. Due to the limitation of one camera, the inability of using more lights and lack of microphone power, positioning hampered adequate visual coverage so that backs of jurors, attorneys, and newsmen were distracting to the viewer. In addition, one evening nine minutes of defense counsel's opening statement were lost when a power failure occurred in the remote taping unit. Sound familiar?

In spite of some production problems, in the eyes of the public, there is a positive aspect from the experience: an opportunity to view a real life situation, in unedited form, complete with social problems, poverty, and crime, not always available in this form.

What is its significance to the court reporting community? For now, to maintain a distinction between courtroom TV and courtroom video recording, wait for media representatives and court administration officials to render a preliminary evaluation of its function, and for NSRA to volunteer its consulting services, based on input from its membership channeled to national headquarters.

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See our Article on Advanced Reporter Training in this issue.

# The Diamond Vault: Part II

Continued from page 24

## Who's Who



Doris Mauldin was born in Atlanta, Georgia, and educated in public schools in a number of states throughout the eastern part of the United States through junior high school.

At this time Doris' family was transferred to Puerto Rico, and she graduated from a private high school there in Yauco with a scholarship in English. She later attended two years at the University of Puerto Rico.

After some uncertainty about careers open to a graduate with an English major, Doris left school and became a secretary. During two years as a secretary in San Francisco at the San Francisco Employers Council, she continued her education at night at the University of California Extension School in that city.

In San Francisco Doris first learned about the profession of court reporting. One of the functions of the Employers Council was to negotiate employers' disputes with unions, and these sessions were held in the office of the Council and were reported. The daily contact with reporters stimulated her interest in the field, and she moved to Miami in order to live with her family and attend reporting school.

Doris began her reporting training in 1953 at the Pan American Business College in Miami, which became Walsh Business School while she was still a student.

In January 1955 Doris joined the reporting staff of Jack W. Mallicoat in Miami and remained there in the combined freelance and official office for 18 years. On August 1, 1973, she and Noreita Kempe formed a freelance partnership in Miami under the name of Mauldin & Kempe.

Doris became a member of National Shorthand Reporters Association in 1955, and was a charter member of Florida Shorthand Reporters Association in 1961. She became a member of the FSRA Board of Directors at its first annual meeting, and served as a director or officer until she became president in November 1972.

Doris has served at one time or another on nearly all committees of FSRA, and was chairman of the committee which wrote the present CSR bill. Continuing her longstanding interest in standards and reporter training, she presently is a member of the FSRA Professional Education Committee under the chairmanship of Gayl Knaus.

Doris is single and lives in Miami with her mother. She likes crafts, needlework, water, fishing, and boats. She has a weekend home in the Keys and is there whenever time permits.

Doris received her Certificate of Proficiency at the NSRA convention in New York in 1957 and her Certificate of Merit in Denver in 1960.

Continued on page 26

Continued from page 25

## Spotlight's On . . .

### JACK BESONER FSRA Vice President



It is customary and convenient to compartmentalize the lifework of man — youth, middle, mature, late — also something colossally impertinent about it. This seems particularly true in the case of Jack Besoner. Whether seen roistering with his family, or intent on business, Jack is indeed a “Man For All Seasons.”\*

What follows here, it should quickly be said, is not an individual judgment, but a consensus.

In the annals of public life, Jack might be likened to a weather vane; he shows which way the wind is blowing and how it is shifting. But so powerful is his personality, so personal his feel for his fellow beings, that at times the weather vane seems to be self-propelled, spinning of its own volition.

Being a compulsive mover and planner, he keeps a notebook containing his fleeting ideas. Of course, if you ask his family, they’ll tell you that he also writes down “dumb jokes” that he hears and then with great delight repeats at every opportunity. “Everytime a lawyer writes something, he is not writing for posterity, he is writing so that endless others of his craft can make a living out of trying to figure out what he said. Course perhaps he hadn’t really said anything, that’s what makes it hard to explain.”\*

His self-assurance can be seen in everything he does, from guiding, counseling, and helping his fellow reporters, to enlisting the aid of a Mayor and City Council in obtaining a theatre for a community theatre group. But be assured, that mixed with his self-assurance is gallantry, and an assumption that if a situation has to be mastered, he is the one to master it. “That’s all there is to success is satisfaction.”\*

For all his proficiency in the reporting field, Jack is still not content. He is continually researching law, delving into real estate speculation, moving in the world of politics, etc. “There is nothing as stupid as an educated man if you get him off the thing he was educated in.”\*

Jack’s deep perception of life, and his stress upon the simple, tender aspects of it, can be seen in the endless hours he devotes to others. And he has the capacity to do all this without depriving his own family of the time, attention and love they need. “The best way to judge just how good a man is, is to find out how he stands around his home and among his kind of people.”\*

*\*Quotes from “The Will Rogers Book”  
(Jack’s favorite humorist)*

Continued on page 27



Continued from page 26

## Spotlight's On . . .

### JOSEPH M. TROIANO, JR. FSRA President-Elect



One must be prepared for many surprises when focusing on Joe Troiano, FSRA's upcoming President . . . there's a lot more than meets the eyes!

Any member, who has attended an FSRA Convention, will attest to the fact that Joe has a zest for life, an enjoyment of partying and likes to have a good time! Those who know Joe, and those who work with him, all have fond stories about his wit and sense of humor. His employees point to this marvelous sense of humor as a source that helps to alleviate and make bearable the pressures that all court reporters experience.

Joe has a strong sense of responsibility to the profession he loves and a deep conviction that through his efforts he can contribute immensely to its advancement. He has a particular interest and takes great pride in the nurturing of brand new reporting school graduates. Instead of adopting the attitude that so many have, of hiring only experienced reporters, Joe, bound and determined to help build top notch reporters, hires these neophytes. He then works with them relentlessly and without complaint, often times well into the morning hours, developing poised, accomplished and unflappable reporters.

Joe takes his profession and his professional affiliations very seriously. He strongly believes that through the efforts of both the National and the Florida Shorthand Reporters Associations, the better interests and needs of reporters are constantly pursued. Because of this belief, Joe has always done his share by actively serving on various committees, as member as well chairman.

Joe views his upcoming role as President as one of his greatest and most rewarding challenges to date, and has spent hours researching and listening to the ideas, suggestions and needs of his colleagues.

Joseph M. Troiano, Jr. will bring to the Presidency a nice blend of determination, strong convictions, a firm belief in the profession, wit and a sense of humor.

Joe, we support you and wish you the best.

By Joy Weston

# Communication as Easy as One-Two-Three



**A**h, the differences between men and women, the mystery that has fascinated the minds of scholars and ordinary men and women alike, and the source of endless magazine articles, books, and television shows. Yet nowhere do these differences rear their ugly head more than in the area of COMMUNICATION. He needs to be seen, heard and understood this way, she needs to be seen, heard, and understood that way. Neither of which is ever the same way, whatever that way may be, and that's only the beginning!

When my husband and I first got together, it didn't take us very long to realize that all the years we had spent developing our unique personalities had left its mark on how we wanted and needed to communicate. We knew that we loved each other and really wanted our relationship to work, but when little bickering

started to show up, we realized that our Communication skills definitely needed some help.

One day my husband arrived home from work very upset because a particular customer reneged on sending him a very large and long overdue check. As my husband went on to share his feelings of anger and disappointment, all I could hear was that someone had hurt someone I loved very much. So I immediately went into my "Little Miss Fix-It" reaction of "let me now tell you all the ways we can fix this and make you feel better!"

Unfortunately, or fortunately as it turned out, this was the very last thing my husband wanted to hear, and the worst thing I could have

me with her great advice! Forgive me, but I am not the least bit interested! It's not that your advice isn't worth listening to, because, in most cases, it is, but right now I don't care how brilliant your words are. I just want to say what I have to say and not have to hear a single word of advice!"

How interesting...especially since I had often felt the same way...except I had called it "not being validated!" So many times I had told my husband about things that were upsetting me, and I would feel patronized by his brush-off words. Or if I reminded him that he had forgotten the "us" in our relationship and I needed more intimate talks and touching, instead of being "Miss Fixit," all I really wanted was to be heard. He would then go into what I called his "Mr. Defensive Mode," and I would end up soothing his precious damaged ego!

Since clearly this was not just a "Joy and George thing," together we decided to tackle this problem for all mankind, and ended up creating what is now known around the world as the One-Two-Three Solution.

Here's how it works: Say you come home with something that's really bothering you and you want to tell your partner about it, without having to be concerned about their reactions, opinions, or advice. You say to them, "I have something to say to you and it's a One."

A One says to the other person, "I have something to say that is important to me, and I want you to listen without any interruptions. These are just my feelings, and I don't want them to be judged or to be made to feel wrong for having them. I don't want any agreeing or disagreeing, rolling of your eyes, nodding of your head or lip smirking. Please, I need you to just simply receive my Communication."

A Two isn't so dissimilar from a One, except here a bit of input is okay—as long as the other person keeps in mind that it's input that is desired, and not a full-fledge game plan of fix and attack.

A Three means, "Okay, honey, do your thing! Here's your open invitation to "heal and minister" and tell me whatever thoughts you might have. Any and all solutions or strategies that you can add to, alter, or fix the situation, are all welcomed and wanted!"

Learning and then practicing good Communication skills with the people you really care about can turn your ordinary relationships into extraordinary ones. It's important to know your worth and value to others, but more important to know when and how to share those unique gifts. Acting from a place of wisdom rather than simply reacting out of habit, is how the One-Two-Three Solution really works! As they say, use it or abuse it: it's your count!

## Seven Tips for Better Communication...

1. Take responsibility for the other person's listening. If you feel you are not being understood, try again. Say it in different ways until you are heard.
2. Take responsibility for what you've heard. Don't be committed to only your opinion, ask for clarity and repeat back your interpretation.
3. Take responsibility for what you want to express and what you want from the situation. Take a moment to be clear with your thoughts and then words.
4. Align your values and intentions with your actions. When you live your life from a sense of truth and integrity, you'll never have to fear any honest communication.
5. Listen to the silence as much as the words. We learn as much about others from the topics people aren't willing to talk about, as from what they are.
6. Try to be as open to the criticism as to the validation. Oftentimes we learn more about ourselves and others from the criticisms, than from the compliments.
7. Be flexible and willing to re-think and regroup. If you are in the middle of a discussion and your position changes,

done! He went crazy.

"Can't you understand that there are times when I just want to be heard and not fixed? All I want is a safe space to be able to share what's bothering me, without Dr. Joy coming to rescue

This chapter and tips have been excerpted from Joy's Best Seller: *How an Ordinary Woman (also one for men) Can Have an Extraordinary Life: The Formula for The Art of Living Well* ~ [www.JoyWeston.com](http://www.JoyWeston.com).



By *Becca Tebon*

## Becca's Bootcamp: Spring Clean Your Waistline! 90 Days to SuperFIT, Healthier & Happier You

Rome wasn't built in a day, and if attempting to overhaul your lifestyle all at once has felt kind of intimidating and by this point your greatest failure in 2018 —slow down and make one small change at a time by following this 12-month guide. The changes are meant to be cumulative. Maintain those from the previous month and add each month's new habit to your routine. You are starting in March, however, I want you to treat it like it's January and you are starting fresh with a New Year Resolution. The emotional high and excitement of starting. I want you to move past that and imagine why you want the change and how that will look and feel. Take yourself from your "actual life" and imagine your "ideal life." It's possible and probably to obtain, some or all of your ideal dreams. Let's reverse engineer over the next few months. In just 90 days you will have created MAJOR changes... in just 2 weeks you will see changes in just 3 days you will feel how the habits are changing how each day feels. I hope you enjoy the fabulous tips on ritualizing your food habits so you feel better, look better and grow even closer to being your best ever. You can read the rest of the article and add more monthly healthy and happy habits here: [www.BeccaTebon.com/month-by-month-healthy-habit-guide](http://www.BeccaTebon.com/month-by-month-healthy-habit-guide)

### **MARCH: Focus on the positive**

You are in the excitement phase, "the CONSCIOUS STAGE." During the "conscious phase", which typically follows a motivational or monumental event, the habit has been decided to be shifted or that is needs to be changed. You're so inspired and enthusiastic to make the changes because you see a great value in the outcome, someone else thinks you should do it or possibly someone else did it and you covet it for yourself.

If weight & fat loss are your goal, cut yourself some slack! Focusing on what you don't like about your body can make you more susceptible to illness, stress and thoughts of failing. Find the things you love about your body — these can be appearance or performance-based — and put more emphasis on those. By appreciating your unique traits and not comparing your body to others, you can improve your body image and decrease feelings of body shame. The key is to stay in motion or incorporate a specific action (habit building) that you defined will get you closer and closer to your goal. Wipe away inspiration and be sure to plaster your "WHY YOU ASPIRE" to reach your goal and make it specific on a "My Daily Sticky Note" and keep it where you will always see it. In addition (not or), you can journal this S.M.A.R.T. goal, on paper with a pen (not electronically) as

it is backed by science that hand-written goals are achieved.

To Do: For the next 4 weeks write your key daily gratitude on a sticky not. "I am grateful for \_\_\_\_\_"

### **APRIL: Keep a food diary**

Track your meals can make you more conscientious about what (and how much) you're really eating, and where you can make smarter choices. Studies have found that those who are more diligent about recording what they eat and when they eat it have more success at losing weight than those who don't.

I have an accountability program which allows you to log in as you eat, drink and track your meals, then at the end of the day you simply click submit and awaken with a message from me on your choices and possible other ideas to elevate bad choices if there were any. Not sure how many calories you should aim for? Grab a call with me and I'll figure out your BMI and calorie needs.

To Do: Cut 500 calories per day and you will lose 1 pound per week or 4 pounds in one month.

### **MAY: Cut out added sugar**

Fruit is good. Candy... not so much. Sugar is hidden in foods under other auspicious names and additives. In fact, some foods that seem healthy have a surprising amount of added sugar such as the bottled flavored water, cereal, soups, snacks and condiments such as ketchup. High consumption of sugar is linked to weight gain, and can increase risk of heart disease, so when you crave something sweet, reach for fruit instead. I also recommend not having fruit after 3p. It's a great snack for energy, way better than a snickers bar. An apple is actually shown to provide as much energy as a cup of coffee.

### **JUNE: Make it a meal prep month**

It's easier to eat clean when healthy meals are already in your fridge. Set aside a day to plan and prep your food each week. Prepping healthy meals can keep your diet on track.

Eating healthy food is easy. Cooking and prepping healthy food is the real challenge. But a few simple meal planning strategies can help you get your nutritional game on point — and you don't have to be a domestic warrior to pull it off. Your nutritional needs are the foundation of your meal plan. So before you start bookmarking recipes, do a quick assessment of your personal goals. What do you

*Continued on page 30*



## Becca's Bootcamp: Spring Clean Your Waistline! 90 Days to SuperFit, Healthier & Happier You

*Continued from page 29*

need to eat more of? Less of? What foods are best for you? What do you need to remove from your pantry or freezer? My primary piece of advice for someone who wants to start meal planning is to find out what foods are right for his or her body. When you meet the body's fuel (i.e. nutritional) requirements are met, hunger, food cravings are nonexistent and moodiness disappears. Energy, mood, mental function, and well-being all improve. When that happens, it becomes very easy to follow a diet plan. Once you know what you need to eat, compile a master list of recipes. That way, you can pull easily from that list rather than combing through cookbooks every week or falling into the rut of repeating what you made last week. Use whatever organizational system works for you — Pinterest, meal planning apps, index cards in a recipe box, or even an Excel spreadsheet. Be sure to allow for flexibility while planning your meals for the week. Some people make a school cafeteria-style calendar and schedule every last snack in advance — but it's also okay to stock up on healthy staples and then wing it at mealtime, once you've got it done to a healthy habit. Make a grocery list based on your favorite healthy foods and any new recipes you've pulled. Having your favorite things ready to go is key. Make a list of the foods you know are a part of your meal plan, and make sure you stock up on those. I always have tons of fresh fruits and veggies in my fridge, and frozen along with a few different types of proteins, nut butter, raw nuts, seeds and lots of herbal seasonings. This way, no

matter what I want to make for a meal, I have the ingredients I need. When you get home from the grocery store, don't just stuff your purchases in the fridge. Peel your carrots, slice your cucumbers, scrub your sweet potatoes, and dice your onions. Not only does it become a one-and-done task rather than a daily chore, but it makes you more likely to grab those healthy foods when you're hungry. Prepping your food is a huge part of success. I cook enough protein, grains, veggies to get me through at least three to four days and I have my "go-to" foods for my meals and to grab when I am on the road or will be away from my home or office for an extended period of time. Lastly, don't sabotage yourself by trying to eat foods you don't like or created meals that call for 20 ingredients and you suddenly find yourself all over town looking for a specific spice or veggie. Keep it simple until you feel you're ready to take it up a notch.

**Do It:** Here are five steps mentioned above to get you started. Set your main goal for the month. Make a plan and prep. You got this!

1. Set Your Goals
2. Make a Master Plan
3. Shop Strategically
4. Bang Out the Prep Work in 60-90 minutes for 4 days at a time
5. Don't Sabotage Yourself



# 1,000 New Words Just Added to Merriam-Webster from 'binge-watch' to 'Seussian'

Just as the English language constantly grows, so does the dictionary. More than one thousand new words have been added, including terms from recent advances in science, borrowings from foreign languages, and words from tech, medicine, pop culture, sports, and everything in between. This is a significant addition to our online dictionary, reflecting the breadth of English vocabulary and the speed with which we seek information. These new entries also highlight the old-fashioned skill of crafting useful and readable definitions that require the expertise and experience of our unique staff.

'Seussian' ("of, relating to, or suggestive of the works of Dr. Seuss") is now in the dictionary, along with 'conlang' ("an invented language"), 'facepalm' ("to cover one's face with the hand as an expression of embarrassment"), and 'prosopagnosia' ("an inability to recognize faces").



The work of revision is ongoing and constant; even though it seems that the latest slang gets the most attention when dictionaries issue lists of new words, the additions come from the whole range of registers and from every corner of the language. These are words that have demonstrated frequent and increasing use in a variety of sources, and are therefore likely to be encountered by a reader—and should be in the dictionary. In some cases, terms have been observed for years and are finally being added; in others, the fast rise and broad acceptance of a term has made for a quicker journey.

For example, we now see that new tech terms are more about what we do with technology—how it is managed, deployed, and organized—than giving a name to the technology itself; hence terms such as *net neutrality*, *abandonware*, and *botnet*. Our devices, apps, and programs allow us to *binge-watch*, *photobomb*, and *ghost* someone. Things we read online might be *NSFW listicles*; things we post online might be *humblebrags*. Some of these terms came into use in the past decade, and none are more than twenty years old.

From sports we get the verb *airball* as well as *up-fake* and *five-hole*. From medicine: *supercentenarian*, *EpiPen*, and *urgent care*. And from other sciences we have *CRISPR*, *phytoremediation*, and *microbiome*. *Prosopagnosia*, sometimes called "face blindness," is a neurological condition that has only relatively recently been the subject of study. The late neuroscientist Oliver Sacks, who suffered from the condition, *wrote illuminatingly about its causes and effects*. The term itself dates to 1950 and comes from the Greek words *prósōpon* ("face, mask, person") and *agnosia* ("ignorance").

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New words from the ever-expanding vocabulary of cooking and food include *arancini*, *EVOO*, and *macaron*, as well as sharp tools of the kitchen *santoku* and *chef's knife*. The adjective *artisanal* now has an expanded entry.

Political terms include *town hall* and *truther* as well as *SCOTUS* and *FLOTUS*.

Fun words for language lovers include *conlang* (a constructed language, like Elvish, Klingon, and Dothraki), *Seussian*, and *snollygoster* ("a shrewd, unprincipled person"), which has the unusual distinction of being a word returning to the dictionary. *Snollygoster* was dropped from our *Collegiate* dictionary in 2003 because it had fallen nearly completely from use; its frequent use by conservative pundit Bill O'Reilly sent people to the dictionary to find it over and over in recent years, and demonstrated that the word still has a place in the American lexicon. Its origins have a political context: it was used in the name-calling politics of 19th-century America.

Familiar words combine to give us metaphors or imagery like *train wreck*, *side-eye*, and *weak sauce*. As for verbs, we can *ride shotgun*, *walk back* an opinion, *throw shade*, *facepalm*, and *geek out* with new dictionary entries. Other new compound terms are much more serious, like *food insecure*.

All of these words have been observed, collected, and researched, with many examples in context used to write definitions that explain both basic meanings and specific usage. A recent sense of *agnostic* has been defined as "not preferring a particular device or system" and "designed to be compatible with different devices (such as computers or smartphones) or operating systems," since "platform agnostic" can refer either to a user or a program. The verb *boo-hoo* adds the note "especially in mocking imitation of another's tears, complaints, unhappiness, etc." to the definition.

Take a look at these words and a sampling of other new entries, listed below. They represent a continuing record of our evolving language—and we're already at work on the next batch. *Yowza!*

bokeh  
elderflower  
fast fashion  
first world problem  
ginger  
microaggression  
mumblecore  
pareidolia  
ping  
safe space  
wayback  
wayback machine  
woo-woo

By *Donn LeVie, Jr.*

## 7 Tactics for Working a Job or Career Fair

**T**here's only one reason people hire you or buy your product: that decision to hire or buy helps them get something they want, not the other way around.

That being said, that's your new mantra when you attend job/career fairs.

Having been involved with my share of job and career fairs over a 30-year career (mostly at conferences that sponsor the job fair), the candidates who understand how to work a job/career fair tend to have a better chance of getting follow-up contact with company representatives who are present than those who go in blind.

You need to know that there are basically two types of job/career fairs: Conference-sponsored events and non-conference-sponsored events. Conference-sponsored events are usually supported by employers with a connection to the conference profession. Non-conference job/career fairs typically have a variety of employers and industries represented. Know the difference so you don't waste time at a job fair that doesn't offer many options in your profession or field.

Be confident, wear a sincere, friendly smile, give a warm hello with eye contact and a firm handshake, whether you've been out of work for a week or a year. Don't wear your previous disappointment in your body language or facial expressions. One job fair veteran I know calls such gatherings the "diaspora of the desperate" because attendees look distressed and act desperate in how they approach job/career fair interactions company representatives. No pleading, sad stories, or long explanations. Don't forget that you are also interviewing them to see if they are a good fit for your expertise.

Here are seven tactics for maximizing your effort at a job/career fair:

1. Plan in advance. Review the list of employers who will be present and which companies will be of interest to your expertise. Follow up by researching the targeted companies to get a feel for the company culture and type of work environment. Make a list of "A" employers and "B" employers to visit or schedule interviews.

2. Memorize your pitch (value proposition). You are the problem-solver and solutions provider they have been seeking, so sell them on the benefits of your expertise and how it will serve the hiring manager/company's interests going forward. Job interviews – even at job/career fairs – are never about you; it's always about what that decision maker or company needs. You should know every bulleted item on your résumé and be able to speak at length on each one.

Be ready to answer the inevitable question: "So, tell me something about yourself..." and DO NOT recite your résumé. Worst response to the question is "So...what do you want to know?" Use that as your answer and you won't go any further in the hiring process. One of the best responses I received to that question was from a programmer I interviewed years ago that told me so much in one short sentence: "I'm cello-playing kid's soccer coach, on the PTA board, and I'm a darn good programmer with an eye on the budget and the schedule."

In that one sentence I learned he likes and performs classical music, he's involved with his kids and family, he's active in the community (PTA), he's confidently assertive, and he knows what's important to me as the hiring manager: budget and schedule.

3. Don't talk money! This NOT the time to talk about salary because it's just the first meeting to see if you each are compatible. You don't ask someone on a first date if they'll marry you, so keep any idea of salary and benefits out of the discussion; you aren't at that point yet.

4. Dress for success. Regardless of the type of position for which you are interviewing, dress like the CEO of "YOU, Inc." Remember the power of visual first impressions; dress for how you want to be perceived by company representatives. It's human nature for the eyes to exert so much influence over that instant first impression.

5. Establish your LinkedIn profile before attending the job/career fair. Many company representatives may first check your LinkedIn profile prior to your meeting. It's a good idea to connect with the company representative on LinkedIn after the job/career fair.

6. Bring plenty of copies of your résumé with you. Be sure you pull out that copy of your résumé from a nice leather portfolio or briefcase, not a plain file folder. Look professional even with your accessories. Be sure to have a reverse-chronological résumé version if you are changing jobs; have a functional version for changing careers. Make them perfect so you don't have to apologize for anything when you hand a copy to the company representative. Bring with you a list of references, but unless you are asked for it, resist the urge to leave it and any other documents with employee representatives. They don't want to be lugging reams of documents on the plane with them when they return to their home cities.

*Continued on page 33*



# Bailey & Associates Court Reporting Deposition Video

**B**ailey & Associates court reporting firm has deposition video suites located in Boca Raton, West Palm Beach, Fort Lauderdale, Miami, Hollywood and other locations. The firm utilizes the services of independent videographers to accommodate the needs of tech-savvy attorneys who are interested in adding this service to their legal practice. The court reporting firm will also assist clients throughout South Florida with flexible scheduling options.

“Traveling is always an issue for attorneys. They have meetings throughout the state and one of the first things we learned on the job is that a meeting time and location can change at a moment’s notice. You have to be flexible and adapt to the schedule of your client. One minute you could have a scheduled deposition video in Miami and the next minute it’s been moved to West Palm Beach and you need to be able to provide the office for it. That’s why we decided to add the luxury suites to our list of services.” Bailey & Associates Court Reporting Representative

BACR offers a wide variety of services to go along with the standard court reporter duties and luxury suites. The firm also offers an online repository that is secure and can be accessed anywhere 24/7, internet deposition options and other services as well.

“Video depositions are in such high demand. Lawyers find that they offer certain advantages during a case and it’s a great way to capture the emotion of a client along with their recollection of the incident while it is still fresh in their minds. A video deposition is a powerful tool to be used during a case and you have to be confident that the court reporting firm you hire can deliver it in the highest of quality. Our team of independent videographers has been well trained and has years of experience working with this equipment to ensure complete client satisfaction.”

## 7 Tactics for Working a Job or Career Fair

*Continued from page 32*

7. Don’t be a Ralphie. In the hit seasonal comedy, *A Christmas Story*, young Ralphie brings to class a large fruit basket for his teacher. After the teacher thanks him, he remains at her desk, staring and smiling at her, oblivious to the cue that “the moment” is over. Don’t be a Ralphie. Recognize social cues that your interview time is over (interview times at job/career fairs are often abbreviated due to the number of candidates being interviewed). Don’t treat the meeting as an excuse to linger in the booth area or intrude on free moments between interviews. Close it out by controlling the follow-up by asking for a specific date and time when you can get back in touch, preferably by phone. Think of the encounter as the first of several meetings or communications with the individual or the company.

Having access to a variety of employer representatives gathered in one location is sort of like speed dating: you want to show up prepared, be a great listener, and leave a positive first impression that makes the employer representative wanting to know more about you – perhaps even discussing a job with the company.

Remember your new job fair mantra: There’s only one reason people hire you or buy your product: that decision to hire or buy helps them get something they want, not the other way around. Be the servant expert they need.

*Donn LeVie Jr. is a speaker, positioning/influence strategist, and award-winning author with 30 years’ experience in leadership and management positions for Fortune 100 companies (Phillips Petroleum, Motorola, Intel*

*Corporation). He has worked for NOAA in oceanographic research and taught at the University of Houston Downtown College as an adjunct faculty lecturer. Donn is the author of Confessions of a Hiring Manager Rev. 2.0 (Second Edition), which was the WINNER of the 2012 International Book Award [IBA] and the GOLD MEDAL WINNER of the 2012 Global eBook Award [GeBA]. His follow-up book, Strategic Career Engagement: The Definitive Guide for Getting Hired and Promoted, was the RUNNER-UP of the 2016 IBA and the SILVER MEDAL WINNER of the 206 GeBA.*

*Visit Donn’s home page to get his FREE ebook, A 10-Step Social Media Plan for Gaining Access to Decision Makers.*

*Are you planning a conference and need a dynamic, witty, and informative speaker who can take your attendees to the next level in their professional advancement? Then schedule a 10-minute phone call with Donn to find out if his programs would be a great value to attendees and benefit to your organization.*

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By Lisa Migliore Black

# Look a Gift Horse in the Mouth: The Pitfalls to Gifts and Ethical Obligations



The meaning of the proverb “Don’t look a gift horse in the mouth” is, when given a present, be grateful for your good fortune and don’t look further to assess its value. However, this may not be sound advice in our legal arena.

Gifts and incentives designed to influence your decision on which firm to use for court reporting services are coming in all forms. You might wonder why your court reporter doesn’t offer such incentives. The answer is simple: According to the National Court Reporters Association (NCRA) and the American Bar Association, as well as many state bar associations, these practices can be considered unethical, especially when considering the value of the gifts and the terms under which they are being offered. Additionally, these gifts may come with some unintended tax consequences for you, your law firm, and the court reporters who give them.



Before accepting these gifts, you should investigate how the gifting practices of your firm’s vendors (including court reporters) apply to the rules in your state. The Model Rules of Professional Conduct, Client-Lawyer Relationship, Rule 1.8, Conflict Of Interest state: (f) A lawyer shall not accept compensation for representing a client from one other than the client unless: (1) the client gives informed consent;

(2) there is no interference with the lawyer’s independence of professional judgment or with the client-lawyer relationship. ABA Formal Opinion 93-379 Billing for Professional Fees, Disbursements and Other Expenses offers further clarity: “In the absence of disclosure to the contrary...if a lawyer receives a discounted rate from a third party provider, it would be improper if she did not pass along the benefit of the discount to her client rather than charge the client the full rate and reserve the profit to herself. Clients quite properly could view these practices as an attempt to create additional undisclosed profit centers when the client had been told he would be billed for disbursements,” (Peter Geraghty, 2010).

While non-lawyers are not subject to professional discipline, the lawyer for whom they work is responsible for ensuring that their conduct is compatible with their own professional and ethical obligations. Many of these incentive

programs target the staff that book depositions—\$100 gift cards, iPads, Wii systems, points redeemable for limousine rides, artwork, etc. Because of the ubiquity and popularity of these type of offerings in the marketplace, the impropriety of these exchanges by court reporters may not be evident at first glance. A court reporter’s duties in our legal system have many similarities to that of a judge. If gifts, gift cards, or money were exchanged between judges, litigants, and attorneys in a case, red flags would certainly be raised. Like judges, court reporters are expected to carry out their duties in a fair and impartial manner. Our justice system simply can’t be bought and sold to those offering the highest reward, incentive, or kickback. To protect against these practices, many law firms, governmental agencies, and bar associations have a strict policy that prohibit the acceptance of gifts from vendors.

How the Internal Revenue Service views these gifts is also of great concern. The law firm of Hanson Bridgett has been retained to review the tax implications of these incentives. Hanson Bridgett opines: “Given that the incentives provided by Reporting Firms in exchange for business are payments for services rather than gifts, the [Internal Revenue Code] requires the recipients of those payments to treat the value of the incentives as gross income.” This means that recipients must report the value of the incentives they receive as income on their tax returns. Failure to do so could result in the assessment of additional taxes, interest, and penalties by the Internal Revenue Service.

In fact, a law firm having a general policy in place that disallows acceptance of gifts may not be sufficient to avoid tax consequences. According to the Hanson Bridgett memo, “Where law firms have policies in place prohibiting employees from accepting incentives, serious tax issues may still arise to the extent these policies are not enforced,” (Wendy L. Taurianinen, February 2011).

Moreover, the Hanson Bridgett memo details that there are serious tax and IRS issues as well for the court reporting firms offering these incentives. Court reporters would be wise to adhere to their Professional Code of Ethics for their own sake. NCRA has recently updated its Guidelines for Professional Conduct to forbid all forms of incentive gifts in exchange for bookings. They advise that reporters must, “Refrain from giving, directly or indirectly, any gift or anything of value to attorneys or their staff, other clients or their

Continued on page 35

# TREASURE TROVE

It's time to get your creative juices flowing and shine bright by showcasing your artistic talent or that of someone you've discovered.



You are limited only by your imagination. Be it a painting, hand-blown glass, a sculpture or something else that is unique and special, this FUNdraiser is sure to be spectacular and brilliant!  
Prepare to be dazzled!!

## Look a Gift Horse in the Mouth: The Pitfalls to Gifts and Ethical Obligations

*Continued from page 34*

*staff, or any other persons or entities associated with any litigation, which exceeds \$150 in the aggregate per recipient each year. Nothing offered in exchange for future work is permissible, regardless of its value.*" The guidelines prohibit any form of cash or point systems as acceptable gifts and also provide for a fair market valuation of the gifts being offered to further guide court reporters on how to avoid the appearance of impropriety.

To promote awareness of these issues, NCRA is attempting to educate attorneys, staff, and the consumers of legal services through positive peer pressure among its members with an expanded marketing campaign called Ethics First. Court reporters and court reporting agencies who agree to abide by these voluntary guidelines are allowed to display the Ethics First logo, which when used properly, will instill confidence in consumers of the legal system and the general public. Attorneys, law firms, and judges are encouraged to participate as well. For more information about Ethics First, visit <http://ncraonline.org/ethicsfirst>.

**Since the litigants in a case are the ones who are ultimately paying for any incentive dependent on procurement of work in the invoices for services, litigants are unknowingly funding the bill for some vendors' marketing strategies.** States like Nevada, Tennessee, Arizona, California, Montana and others have regulations

that forbid these transactions. Formal complaints have been filed and violations have resulted in public reprimand and fines imposed.

In other venues, where law does not exist forbidding these practices, the conduct of court reporters may only be constrained by the \$25 limit for gifts set out in the IRS Code and voluntary professional guidelines. A diligent reporter who complies with the NCRA guidelines may need to limit the remainder of the \$150 per client to items that are truly marketing in nature or for entertainment related to client development.

Whether a violation of the professional guidelines for court reporters, the rules governing attorneys, or tax law, caution should be exercised when it comes to the exchange of gifts. The pitfalls associated with lack of compliance can be detrimental for all involved in the legal system.

Sources: [Peter Geraghty, ABA Center for Professional Responsibility \(2010, March\). Frequent flyer miles, gifts, discounts and rebates from third party providers. ETHICSearch.](#)

[Wendy L. Taurianinen, Esq. \(February 2011\). In re: Taxation of incentives given by court reporting and deposition reporting firm.](#)



By Michelle Smith, Treasurer

# Pushing Lawmakers to Protect Quality Court Reporting



As court reporters, we need to pay attention to the state and federal laws that protect the public from cut-rate, uncertified reporters. In early March, representatives of the Florida Court Reporters Association attended the National Court Reporters Association's Legislative Boot Camp in Reston, Virginia. We came away armed with tools that can help protect our profession.

**CERTIFICATION HELPS EVERYONE:** In Florida, you must earn a certificate or license before you can offer your services to the public as an engineer, air-conditioning repairman, mechanic, accountant, auctioneer, veterinarian, landscape architect, barber or cosmetologist. Twenty-five states across the country require similar certificates for court reporters. Unfortunately, the Florida legislature has yet to set this requirement for court reporters.

The public needs to be able to trust professionals, and certification provides an important vetting and verification service. The use of certified court reporters ensures quality control and standardization when capturing the record of a proceeding. Court reporters are quasi-judicial officers that have an important role in the legal system. High-stakes legal decisions are made based on reported records, and those records should be developed by true certified professionals.

**HOW TO MAKE FRIENDS AND INFLUENCE LAWMAKERS:** Lawmakers tend to oil the squeaky wheel. In other words, a single letter or phone call will rarely move the needle. Form letters have zero impact. Persistent pressure is key to making change. Personal letters expressing a specific concern are good. As with most other things in life, face-to-face communication is best. Lawmakers generally try to limit their efforts to working on "real" problems, so it is important to show real-world impacts. For example, the Kansas and Ohio court reporting associations have created a database of the "sins" of electronic reporting. These real-world examples can convince lawmakers to act when a theoretical problem may not.

It is also important for lawmakers to hear a wide range of voices. For that reason, we need to build support within other groups that rely on good court reporting. Lawyers are the obvious example, and it helps that they tend to be politically connected. The deaf and hard-of-hearing communities also need accurate written records in order to meaningfully participate. Court reporters have to wage a public perception campaign to build support among these groups and the general public, because public support tends to lead to legislative support. Do not neglect the media, and that includes niche blogs that can be highly influential. Understanding and responding to opposing viewpoints is also important.

We must make the most of opportunities to make face-to-face arguments to lawmakers, whether that comes at a meeting, committee hearing, or anywhere else. You should have some written materials explaining your issue. The materials should include a clear statement of what you are asking for. Avoid lingo like "using Dragon" because that may confuse people that are not experts in reporting. Designate one leader in your group to provide an overview of the situation and then try to allow everyone else in the group to offer their personal perspective or answer a question.

We need engaged court reporters to be successful. State associations need to proactively reach out to members to educate them. The court reporting profession must show that it is adjusting to modern times. Once we have members engaged, we need to organize their efforts. It usually helps to create a legislative committee to solely organize lobbying effort goals. That group can include subcommittees for specific issues, such as a certification committee, notary law committee and other legislative goals. It also helps to keep a "whipboard" that tracks of what legislators you have contacted and how they have responded.

**LEGISLATIVE STAFFERS ARE YOUR FRIEND:** A Member of Congress or state legislator relies on staff, and that staff helps filter all the incoming requests to help the legislator choose what he or she will support. Staff are important, as they usually have the power to influence what the legislator does with the information you present.

Legislators generally have a lot of freedom to set up their own offices, but is useful to get familiar with the common staff roles. Offices are usually run by an Administrative Assistant or Chief of Staff. This person has overall responsibility for the office and for evaluating various legislative proposals and constituent requests. A Legislative Director monitors the legislative schedule and makes recommendations on all issues. Legislative Assistants are then assigned as the main point of contact for specific issue areas. A Press Secretary or Communications Director strives to maintain open and effective communications between the legislator and the general public.

**MOVING THROUGH THE PROCESS:** The first step towards changing a statute is getting a bill that would change to law introduced into the legislature. This simply requires one legislator to submit the proposal to the full body. Many elected officials are lawyers that appreciate the importance of good court reporting, so they are often excellent targets

*Continued on page 37*

# Pushing Lawmakers to Protect Quality Court Reporting

Continued from page 36

to be sponsors. Other legislators can then cosponsor the legislation, and bills tend to have more success with more cosponsors.

Hundreds of new bills are introduced every year. A much smaller number are given serious consideration. A Committee hearing is an important sign of progress for a bill. Legislators use committee hearings to learn more about an issue. Typically, witnesses will be called in to testify about a problem and their proposed solution.

## USE THE NATIONAL ASSOCIATION AS A RESOURCE:

NCRA can be a tremendous resource for virtually all of our legislative efforts. They can help craft bill language so we know exactly what to ask for. NCRA can help us mobilize grassroots support from our membership to present legislators with compelling individualized messages. They can offer coaching to help us prepare for meetings or testimony. NCRA also has key information and resources from their national perspective that can help us hone our message in Florida.

As members of the Florida Court Reporters Association, it is incumbent on us to protect our profession in the state. We should remember to use NCRA as a resource. We should also remember the words of Margaret Mead, which were featured predominantly at the gathering:

*Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.*

This article was contributed by Michelle Smith, Treasurer of the FCRA board and reporter with Stewart & Shoman Reporting in Panama City.



## FCRA + Legislation + You

Are you inspired to get involved but not sure how? Concerned about the direction of some views and issues effecting court reporters and overwhelmed by social media and news from little birds? You as a member of FCRA have a voice and we would like to hear your concerns. Just email me at [michelle.smith.cr@gmail.com](mailto:michelle.smith.cr@gmail.com) and I will make sure the Board hears of your concerns. Or also feel free to email any board member or any member of the Government Relations Committee your concerns.

Every FCRA member's opinion has a right to be heard.

By Todd L. Persson



## Video Depositions: Linguistics, Seinfeld, and Juror Engagement

There is a tremendous difference between spoken and written language. Humans had been communicating with each other for thousands of years before someone, somewhere (most likely Mesopotamia) decided to create the first logographic form of communication. From this very beginning of ancient “writing,” the shortcomings of written communication when it comes to capturing linguistic and phonological content emerged.

Having studied philosophy and English in college before attending court reporting school, I can tell you that every written language since, including modernity, has encountered the same difficulty in translating and conveying *all* meaning from speech to text; and because humans have a much longer history of communicating with sounds, gestures, expression and body language than communicating with writing, we are simply better at it. Sure, written English expression has gotten better over millennia with the implementation of stylistic tactics, such as the use of italics to indicate inflection, punctuation to express emotion, and even more recently using hundreds of emoticons in the expression of more complex emotions such as fear and grief, but writing alone still falls incredibly short in the conveyance of all meaning when compared to spoken language.

We can see some of these linguistic difficulties emerge in the legal world when it comes to trial presentation and juror engagement. Communicating effectively to a jury in a civil trial is tricky business. Having reported many jury voir dire over my career as a court reporter, from what I have seen and overheard while not on the record is that a good majority of potential jurors do not even want to be there and are just waiting to be excused. Furthermore, to the average person, the subject matter of most civil litigation is probably pretty dry when compared to the drama of criminal trials (no offense to civil trial attorneys who may be reading this). So the big question: How do you, as a civil litigator, hold the attention of and actually get through to a jury when it comes to presenting discovery testimony at trial?

### DO WORDS ALONE FULLY ENGAGE OR HAVE AN IMPACT ON A JURY?

I am not a litigator. However, as a court reporter with 15 years of experience, I could certainly be considered a professional observer. Not only am I capturing every word being spoken and who is speaking those words, but my experience in depositions and trials has trained me to recognize body language, inflection, context, diction, emotion, sarcasm, and other linguistic cues that resolve ambiguity and result

in effective pragmatic communication beyond just the words themselves. But here’s the catch: While I can easily recognize all these stylistic nuances of spoken English that can have a great impact on meaning, none of them are reflected in the written transcripts that I produce, nor am I ethically permitted to indicate any linguistics in a transcript beyond the words themselves. And when it comes to trial presentation and juror engagement, these auditory, visual and physical aspects of human conversation that don’t show up in transcripts can oftentimes speak louder than words and drastically affect the meaning of any given passage of discovery testimony that is presented to a jury.

### A TRIAL IS LIKE AN ACCELERATED MARKETING CAMPAIGN

Being the “professional observer” that I am, it also didn’t take me long to realize that a trial in the American justice system is akin to a marketing campaign. The idealist in me would like to believe it is only the facts and truths that will determine the outcome of a criminal or civil jury trial, but in reality it is the *presentation* of all that evidence that will carry the most weight. Just as the tools professional marketers use to reach and persuade their target audiences have changed over decades with advancing technology and the way in which humans interact with their environments, the tools used by litigators to effectively present a case to a jury have evolved significantly.

As an attorney, your case is the product you are selling. Jury voir dire is the act of selecting the best possible target audience for your product. Because the parties in any jury trial have all the same evidence at their disposal, the products that both sides are trying to sell to the same audience are made up of the *same* fundamental components, just put together and presented in different manners. Thus, it is crucial to use the most effective tools possible in your trial presentation that will create the necessary juror engagement, understanding and empathy that will ultimately lead to the sale of your product to that jury.

### TRANSCRIPTS ARE NOT EFFECTIVE TRIAL PRESENTATION TOOLS

Now, the transcripts you receive from your court reporter are one of *the best* and *most vital* tools for trial **preparation**, but as I have seen firsthand in jury trials I have reported, they are not very effective tools for modern-day trial **presentation**

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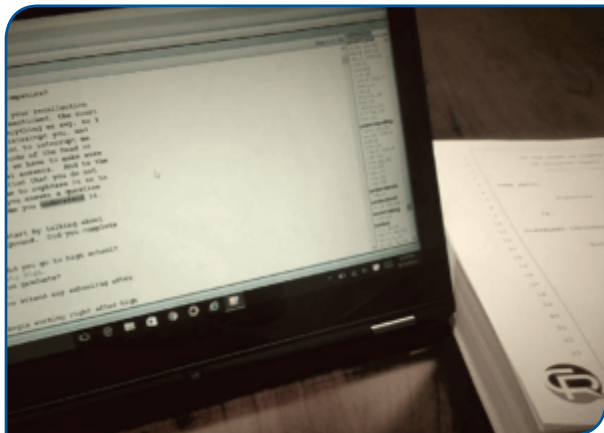


# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 38

(unless your goal is to quickly disengage your jury and/or put them to sleep). Transcripts produced by reputable court reporters will allow you to easily and quickly search through thousands of pages of testimony, annotate within the body of the transcripts to come back to later or share with co-counsel, and have all the deposition exhibits embedded in those files with hyperlinks for instant review. However, transcripts only capture words; without inflection, without emotion, and with little or no context.

So when you, as a litigator, need to present deposition testimony to a jury because you have a witness who will be unavailable at the time of trial, or you need to impeach a witness who is live on the stand in court with his or her previous deposition testimony, how do you best present that testimony to a jury and keep them engaged without compromising any of the linguistics and meaning that simply don't come across in written transcripts alone?



## THE USE OF VIDEO DEPOSITIONS TO CAPTURE THE LINGUISTICS THAT GET LOST IN A TRANSCRIPT

As stated above, all the aspects of linguistics involved in human communication include a wide variety of complexities that go far beyond just the actual words in a transcript. Thus, transcripts of testimony are best left to attorneys and triers of fact in any given case for review, and deposition testimony presented to a jury will be *most effective* with the use of video testimony captured by certified legal video specialists. While the loss of inflection, emotion, diction and other linguistics involved in testimony with the use of transcripts may not matter to those presenting or reviewing a case, it could make all the difference to a jury.

In this article, I will discuss some principles of linguistics using a few examples from pop culture and how those examples then apply to real-life situations in courtrooms across America. I will then discuss how to avoid the pitfalls in loss of meaning and context of deposition testimony by adding video to your discovery depositions for eventual use in your trial presentation. Finally, I will discuss how court

reporters, legal videographers, and trial technicians work fluidly together to produce the most effective tools available when you need to incorporate discovery testimony into your trial presentation.

## SEINFELD – A LESSON IN THE IMPORTANCE OF INFLECTION



*Seinfeld* is widely considered to be one of the most successful and original sitcoms of all time, and the running gag over its nine seasons is that it was a show about nothing. However, what I think the show was really about is all the everyday social peculiarities we come across in American life, especially when it comes to the subtleties and nuances in language and conversation that can greatly affect meaning and lead to hilarious or unfortunate situations and misunderstandings.

One of the linguistic oddities we come across in daily conversation is the effortless use of inflection when we speak, changing the meaning of each sentence we utter depending on which word in each sentence we choose to inflect. Inflection is completely lost in a written transcript, and the loss of that inflection can change the meaning of testimony in many ways. A classic example of inflection changing the meaning of even a very small sentence can be found in *Seinfeld*, Season 6, Episode 8, "The Mom and Pop Store."

In this episode, title character Jerry is unsure if he was purposefully not invited to a party at dentist Tim Whatley's apartment overlooking the Macy's Thanksgiving Day Parade, or if his invitation simply got lost in the mail. Jerry asks friend Elaine to find out if he was invited by asking Tim whether he wants Jerry to bring anything to the party.

When Elaine reports back to Jerry the next day, she says that Tim's response was, "Why would Jerry bring anything?"

Continued on page 40

# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 39

Jerry then comes back with a great question in linguistics. He says to Elaine, "But let me ask you this: Did he say, 'Why would Jerry bring anything?' or 'Why would Jerry bring anything?' Did he emphasize Jerry or bring?"

Elaine's response is, "I think he emphasized *would*."



Although taken from an absurdist sitcom, this is a great lesson in how three different inflections can change meaning three different ways in even a five-word sentence: "Why would Jerry bring anything?" If *Jerry* was inflected, it would mean that he was probably not invited. If *bring* was inflected, it most likely means that Jerry was invited, but Tim is not expecting him to bring anything to the party. If *would* was inflected, it becomes a little more unclear or ambiguous as to whether Jerry was actually invited. And therein lies the punchline when Elaine says that *would* was the word Tim emphasized. Jerry is still uncertain if he's invited to the party based solely on Tim's choice of inflection. **Spoiler Alert:** Jerry crashes the party, inadvertently destroys a four-story Woody Woodpecker parade balloon, and is publicly accused of being a troublemaker by Tim Whatley.

As you can see from this lesson in linguistics from *Seinfeld*, humans are very efficient speakers, and we oftentimes use inflection in our speech in lieu of more words to get our full meaning across, leaving it to our listeners to infer more meaning based on the words we choose to inflect.

## INFLECTION IN TESTIMONY

The fact that we as humans are naturally efficient speakers, using inflection in addition to words to express ourselves and relying on the inferences of our audience to convey our complete meaning does not bode well in the world of litigation if written transcripts are the only form of presenting discovery testimony to a jury at trial. The downside to being efficient speakers is that we are also very ambiguous communicators, and ambiguity is a nightmare in litigation. In fact, some of the most clever and astute speakers will use less words and will rely more heavily

on auditory and physical linguistics to convey meaning, demanding more inference on the part of their listeners to get their entire meaning across.

Now imagine how many inflections are used by a witness in the thousands of sentences uttered in a deposition that can resolve ambiguity or completely change the meaning of answers when you go back and read a court reporter's transcript. The words are all there, but is all intended meaning preserved?

## AVOID LOSS OF INTENDED MEANING FROM INFLECTION BY ADDING VIDEO TO DEPOSITIONS

By including legal videography in addition to a court reporter to capture testimony in a deposition, you are investing in your future trial presentation and will be certain that no meaning caused by inflection is lost when presenting that testimony to a jury at trial. However, if your trial presentation strategy is solely reading to a jury from a previous deposition transcript, in whole or in part, you run the risk of the following when it comes to inflection:

1. Ask any court reporter, and they will tell you; when humans read aloud, we tend to read *very* quickly and in monotone. No inflection will be conveyed in any passage of testimony where inflection may have been present, which could have a drastic effect on the way in which the jury receives that testimony.
  2. When reading discovery testimony to a jury, you run the risk of inadvertently inserting inflection that was not the intended inflection of the witness, which can, again, drastically affect the way in which that testimony is received by the jury.
  3. By not capturing discovery testimony with video, inflection is essentially fair game when reading transcripts to a jury. Perhaps opposing counsel will read a passage of your key expert's deposition testimony at trial, but will insert inflection where he or she pleases to change meaning in favor of their case.
  4. When reading discovery testimony to a jury with no natural inflection, you run the risk of putting your jury to sleep.
- Inflection is a natural and significant part of human communication in the conveyance of meaning and, therefore, should be captured and preserved for future presentation of testimony to a jury.

## MY COUSIN VINNY – A LESSON IN THE IMPORTANCE OF EMOTION, BODY LANGUAGE, AND CONTEXT

In the 1992 courtroom comedy *My Cousin Vinny*, two young men find themselves accused of first degree murder in the deep South in a classic case of mistaken identity and happenstance. Their only hope for escaping a death sentence is a rough-around-the-edges little tough guy and

Continued on page 41

# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 40



attorney from Brooklyn, Vinny Gambini, who is the cousin of Billy Gambini, one of the accused.

Upon his arrest, Billy is under the impression he and his friend were arrested for accidentally stealing a can of tuna from the Sac-of-Suds convenience store in rural Alabama, but during his interrogation with Sheriff Farley, the gravity of the situation comes to light.

Billy is completely apologetic to Sheriff Farley in his interrogation, and he explains the situation of accidentally placing the can of tuna in his jacket pocket before leaving the Sac-of-Suds without paying for it. The Sheriff listens intently, then calmly asks, "At what point did you shoot the clerk?" With a sincere look of shock on his face and shoulders shrugged, Billy replies, "I shot the clerk. I shot the clerk?" Sheriff Farley says again, "Yes, at what point did you shoot the clerk?" Again, befuddled Billy says with even more disbelief and emotion, "I shot the clerk?"

It is at this point that Billy realizes they were not arrested for stealing a can of tuna, but rather for murdering the Sac-of-Suds clerk. It is obvious to the audience that Billy is taken aback by this during the interrogation and clearly had no idea the clerk had even been shot, just by seeing his facial and body language and with the emotion in which he says, "I shot the clerk?"



Now, here is where it gets interesting and to the point of loss of linguistic meaning with written transcripts. While on the stand on direct examination during the murder trial of Billy and his friend, Prosecutor Jim Trotter asks Sheriff Farley if he had gotten a confession from Billy the day of their arrest. Sheriff Farley replies that he did, and then after putting on his reading glasses reads from what appears to be a transcript of the interrogation.

He testifies to the jury with a straight face and no emotion: "I asked him at what point did he shoot the clerk. He said, 'I shot the clerk. I shot the clerk.'" The jury gasps, and it appears that the boys are doomed. **Spoiler alert:** After a ridiculous trial, some hilarious word pronunciation by Joe Pesci, a ruthless judge, and theatrical courtroom wardrobes and antics, the case is eventually dismissed by the prosecution due to the testimony of Vinny's girlfriend, who conveniently knows way too much about positraction, slip differential, and the colors offered by GM on all their mid '60s makes and models. It's a true case of mistaken identity and coincidence, and the boys are set free.

## EMOTION IN TESTIMONY

When humans speak, we alter the meaning of what we are saying by showing emotion, facial expression, and body language that give more context to our intentions. As we can see from the *My Cousin Vinny* example above, when emotion and body language is removed from a response (in this case during interrogation), meaning can be completely lost or altered. Had the jury in the movie been shown a video of the interrogation, they would have easily seen and believed Billy's complete shock to the accusation that he had shot the Sac-of-Suds clerk. However, when the jury was simply read to from a passage of his interrogation transcript with no emotion or context, it reads like a confession and becomes extremely damning evidence.

## YES, NO, I DON'T KNOW, I DON'T RECALL

During deposition testimony, linguistics such as inflection and the meaning of the actual words themselves will resolve most instances of ambiguity eventually in *longer*, descriptive responses. However, it is in the hundreds of *short* responses where emotion, facial and body language, tone and context will alter meaning the most.

Short responses like "yes," "no," "I don't know," "I don't recall," and "I can't remember" will pepper a deposition transcript of any length, and if you are gauging by words alone, every instance of these responses will look the same and have the exact same meaning as any other instance. But when you add the linguistic layers of emotion, facial

Continued on page 42



# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 41

and body language, tone and context on top of these very frequently used phrases, meaning can be altered on many levels.

Some examples are:

1. The witness is screaming “yes” or “no.”
2. The witness has a wry smile on his or her face while answering “yes” or “no.”
3. The witness answers “yes” or “no,” but softly, with their head down, avoiding eye contact.
4. The witness looks to his or her attorney before answering “yes” or “no.”
5. The witness takes a very long pause to a seemingly simple question before answering “yes” or “no.”
6. The witness cuts off counsel’s question before answering “yes” or “no” with contemptuous tone and/or expression.
7. The witness cuts off counsel’s question before answering “I don’t know” or “I can’t recall.” Could they have possibly taken the time to search their memory without even hearing the entire question?
8. The witness answers “I don’t recall” one after another to a quick series of counsel’s questions with obviously no thought involved.
9. The witness answers “I don’t recall” or “I can’t remember” while sighing and rolling his or her eyes.

I could go on with examples where emotional linguistics really hijack meaning in short responses, but I think you probably get the point.

## AVOID LOSS OF INTENDED MEANING FROM EMOTION BY ADDING VIDEO TO DEPOSITIONS

Now, during live testimony on the stand at trial, a jury will witness all the emotion, facial expression, body language, and elapsed time that may accompany responses, and will take those into account along with the actual words in determining the weight they will give to the evidence or in determining the credibility of the witness. But when previous deposition testimony is simply read to a jury, all emotional linguistics is lost.

By adding video to your discovery or trial depositions, you will be sure that all intended meaning from emotion and body language, facial expression and tone will be preserved for the jury, and the witness’s true and complete meaning and character will be conveyed.

Now that we have seen some aspects of linguistics that support the consideration of adding video to your discovery depositions, let’s look at some social aspects that will make it clear that adding video in addition to a court reporter in capturing and preserving testimony is probably a good idea.

## IT’S CALLED YOUTUBE, NOT YOUTEXT



If you think back to the infancy of the Internet, you may remember it wasn’t a very engaging place to spend your time, and the process probably left you entirely more frustrated and exhausted than anything resembling satisfaction. It was mostly text, and if there were images of any kind, they appeared on your screen very slowly, from top to bottom, with laughable clarity. The young Internet was mostly a place for research, and was more frequently associated with term papers and boredom than recreation and fun.

Fast-forward a couple decades, incredible advancements in media players, processors, and the way we effortlessly connect, the modern recreational Internet we recognize today took shape. It’s fascinating to think how something so “new” could have the enormous impact it has had in almost every aspect of our lives. Frankly, to think the Internet’s influence over us today doesn’t cross over into the world of litigation and juror engagement is a monumental underestimation of its power and grasp, its ability to forever alter how we interact with our environments.

## THE POWER OF VIDEO

YouTube is now one of the most profitable arms of Google and one of the most popular and influential websites that exist today. Now, imagine that advancements in media players and processors never happened, and the Internet was still mostly text. Would there be a billion-dollar site called YouText, where you would upload descriptions of events you witnessed? Would there be 150 million hits on your uploaded written description of some unfortunate cat wearing a cape jumping on a trampoline? Of course not.

YouTube is the giant it is because of the simple concept that humans react to and interact with that which most resembles reality. We are visual creatures. We are auditory creatures. Generally speaking, we are creatures that would rather be *shown* than rely on any part of our imagination. This is not because we are lazy or unimaginative. It’s in our DNA. It’s in our history. At the beginning of this article, I pointed out that written communication is relatively new to us. If there is a way to explain and show us something by enticing and inspiring our innate ancestral visual and auditory facilities rather than forcing us to use our imaginations to mimic reality, it will hold our attention and have an immediate impact on us.

Continued on page 43

# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 42

## THE YOUTUBE EFFECT

Today's jurors live in the same world we all do, and they have been influenced by technology in their daily lives just like the rest of us. They have expectations of immediate gratification and simplification the likes we have never seen. Just like the average person, they expect to be influenced and entertained by mimicked reality. This is *The YouTube Effect*, and it is not going anywhere. Its effects will probably increase. The mantra is simple: Show me, or I'm not interested.

*The YouTube Effect* is on display every day in courtrooms across America. It's as simple as this: show the jury testimony with video clips, they are engaged. Read to them passages of testimony, they are disengaged. It's almost like the old saying "I'll believe it when I see it." The origins of this idiom are unclear. Some believe it dates back to the Chinese philosopher Xunzi, who was a Confucian, with the quote "I hear and I forget. I see and I remember." However, other origins also point to the 1960s American "learning through experience" educational movement.

Regardless of its origins, it is clear *The YouTube Effect* is an extension of this philosophy, and its presence in American courtrooms is real. Read to a jury, they will forget. Show the jury, they will remember.

### INSTANT GRATIFICATION AND IMPEACHMENT

We live in a society of *the now* and crave and *expect* information immediately. This totality of immediacy has gotten so prevalent in our culture that events and stories are shared across social media seemingly before they even happen in real life. Twitter journalism has shown us that generally we are more concerned with learning of a news story as soon as possible (regardless of the accuracy of the content) than with waiting for a complete, fact-checked story that may take longer to reach us.

Remember, potential jurors live in the same immediate information-crazed society we all do, and they will expect the same from your trial presentation. When impeaching a witness on the stand with his or her previous deposition testimony, don't make your jury wait. Give it to them immediately. By using video in addition to a court reporter in your discovery depositions, and then by working with experienced and talented trial technicians during your trial presentation, the impact of inconsistent testimony on your jury can be immediate and incredibly powerful.

Your trial technician will use the tools provided to them by a court reporter and videographer to prepare short video clips of deposition testimony that can then be pulled up and played for your jury immediately should the witness's testimony conflict with his or her testimony in discovery. You may have an idea where their testimony might differ at trial based on errata sheets or simply hunches, and you can prepare for your trial examination closely with your

trial technician so that all clips of previous testimony are ready to go should you need them. Without this superior preparedness, you may be left fumbling around with transcripts trying to locate a witness's previous testimony to make your case for impeachment. But guess what: the longer it takes to present previous testimony to your jury to impeach a witness, the less impact it will have. If you instead are immediately pulling up clips of testimony from deposition captured by video that contradict what the jury *just heard* from the witness on the stand, it will resonate with your jury immediately, and you can be sure that your argument will be heard and received with little doubt.

## THE ONE-TWO-THREE LITIGATION SUPPORT PUNCH

Now that we have explored the complex linguistic and social reasoning for incorporating video into discovery for use in your eventual trial down the road, let's take a look at how the Big Three arms of litigation support work fluidly together to ensure your trial presentation is the most impactful and effective as it can be.

### LITIGATION SUPPORT ARM NUMBER 1 – COURT REPORTERS



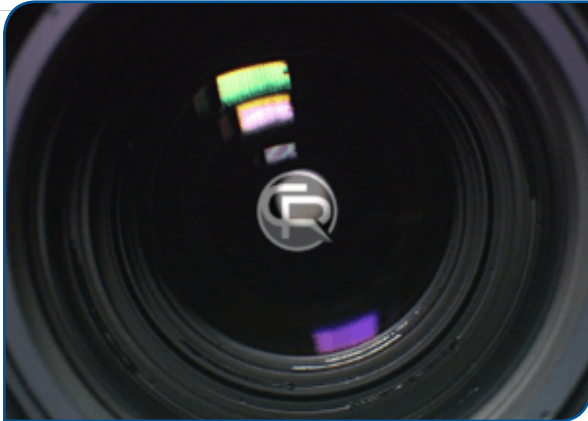
Your court reporter will provide you with the necessary foundation to create the most effective tools for your trial presentation. That necessary foundation is *the actual written transcript*. Your court reporter will capture spoken testimony and preserve linguistic word meaning in your discovery depositions and will create a highly functional, click-searchable transcript. Now, to learn how court reporters actually do this, I'd invite you to check out my previous article that explains all the sophisticated equipment, software, and training involved in court reporting technology. But for the purposes of this article, just know that the written transcript is *the necessary first step* in the creation of state-of-the-art trial presentation tools.

Continued on page 44

# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

*Continued from page 43*

## LITIGATION SUPPORT ARM NUMBER 2 – LEGAL VIDEOGRAPHERS



Just as with court reporters, you will be working with videographers during the discovery phase of your cases. While court reporters are capturing all the words of testimony, videographers will be capturing all the other linguistic components of testimony discussed earlier that may be just as important as the words themselves when it comes to juror engagement and how that testimony will be received by a jury. The Certified Legal Video Specialist (CLVS) certification is granted by the National Court Reporters Association after a videographer passes a CLVS exam that will indicate the videographer's mastery of their craft and a complete understanding of all the Rules of Civil Procedure and ethics that apply to video depositions.

After a video deposition is complete, the videographer will obtain a .txt transcript file from the court reporter and will sync the transcript to their video files. Why is this so important? By syncing the click-searchable transcript to the video files, you are now able to quickly and effortlessly search through the synced file to eventually create short video clips of testimony that you will then use in your trial presentation. Without syncing the transcript to the video files, the process of finding the segments you want to use at trial would take an eternity, especially in cases where you have hundreds of hours of video to go through. It is for this reason why I consider the transcript the foundation. Without it, the process of editing video clips becomes incredibly tedious and can seem like an insurmountable task. With the transcript synced, however, the process of creating video clips is effortless and efficient.

## LITIGATION SUPPORT ARM NUMBER 3 – TRIAL TECHNICIANS

Your trial technician will be working with you from the end of discovery to verdict, and will be with you in court during your trial presentation. By obtaining all the synced video

files from the court reporter and videographer, he or she will then create the video clips to possibly play for the jury at your direction. They will be with you during preparation of examination outlines, and you will work together to ensure you create all the clips of previous testimony that you will need to show the jury in the event your witness on the stand contradicts their previous testimony. With diligent preparation and by working with talented trial technicians, this will happen seamlessly, and the jury will be shown contradictory testimony almost immediately after the witness on the stand has completed their answer to counsel's question. This is by far the most powerful tool available for witness impeachment, and the jury will be impressed with your preparedness and immediacy.

By working with all of the Big Three arms of litigation support, you can take at least some control over the unpredictable nature of litigation and juror engagement and have some peace of mind in knowing that of all the things that can go wrong at trial, effectively getting through to your jury *will not* be one of them.

## RECOGNIZING THE EVOLVING NATURE OF A JURY



A trial in America is cluttered with so many variables beyond a litigator's control, it is no wonder the vast majority of cases filed never see the inside of a courtroom. Trials are huge gambles, for sure. You may have complete confidence that your argument is airtight, all your evidence is solid in foundation and without spoliation, all your witnesses are properly prepped, and your cross-examination strategy is foolproof. But you are your own worst critic. It doesn't matter what you believe. All that matters is how the *jury* receives your argument, how the *jury* sees your case. However, by understanding a modern-day jury, you can take control of this one unpredictable aspect of litigation.

*Continued on page 45*



# Video Depositions: Linguistics, Seinfeld, and Juror Engagement

Continued from page 44

A jury is a collection of our peers. They live in present-day society and are influenced by the changing dynamics of society year after year. Jurors will react to your trial presentation in the same way they interact with their environments at home and in their daily lives when they realize they are the target of marketing. Being seated on a jury will be like nothing they have ever experienced, and it is so important to transform this new, unfamiliar environment into something familiar. When you incorporate video into your discovery depositions for future use in your trial presentation, you will be using tools jurors are familiar with in daily life when they know they are being subject to influence. By recognizing that your jury is prone to *The YouTube Effect* and will also recognize and react to complex linguistics beyond actual words, you can take some uncertainty out of the unpredictable nature of juror engagement.

## WILL THE JURY RECEIVE THIS EVIDENCE?

Bottom line, a question to ask yourself before trial is: "Will the jury receive this evidence?" However, as we saw from the *Seinfeld* example earlier, this question can be asked two different ways depending on inflection. "Will the jury receive *this* evidence?" or "Will the jury *receive* this evidence?" The manner in which you ask yourself this question can alter your trial strategy and ultimately impact your success in effective communication to your jury.

By asking yourself the question with the inflection on *receive*, you are going into your trial with the assumption that the way in which you present evidence to a jury is just as important as the content of the evidence itself. And in today's litigation environment, well, this just may be the case.



## FCRA Contest!



The PR Task Force Committee is pleased to announce a new name contest for our online magazine, *FCR Online*!

### Make History!

FCRA is updating its current magazine name of "FCR Online" to a brand new name!

#### SUBMIT YOUR IDEAS NOW!

Take part in our magazine contest and you could win a free one-year membership! Submission period March 15, 2018, through May 31, 2018.

#### Top 5 Announced June 1, 2018

#### Complete Rules For the FCRA Magazine New Name Contest:

1. Shall become the exclusive property of FCRA.
2. Shall be an original and not copyrighted.
3. The top five names shall be chosen by the PR Task Force Committee.
4. The top five names will be voted on by all members at the annual convention.
5. Members of the PR Task Force Committee are not eligible to participate.
6. Contest begins March 15, 2018.
7. The contest will close on midnight EDT, May 31, 2018.
8. The winner will be announced on June 9, 2018, at the annual business meeting and be awarded a 2018/2019 FCRA Membership renewal.
9. May be modified before use by the FCRA PR Task Force Committee.
10. Contest open to current FCRA members only.
11. Multiple submissions will be accepted.

Email your new magazine name to:  
FCRAmagazinenamecontest@gmail.com

By Todd Olivas



## Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

**W**ithout sounding too dramatic, if I were a newspaper here is what the big headline would read: “Existential threat to court reporting industry averted!” What follows is my year-long journey through an unemployment benefits dispute and audit by the Economic Development Department (EDD) of California.



In a nutshell:

- Long term court reporter gets too many complaints so I stop using her services.
- Court reporter files for unemployment and receives benefits.
- I dispute the benefits and win at Level One appeal.
- Court reporter and the EDD themselves dispute my win at Level One and we go to Level Two appeal.
- Meanwhile the EDD audits three years of my tax records.
- I win at Level Two.
- After six months of being under audit, EDD finds nothing and determines all my court reporters to be independent contractors.

Recently here in California the Unemployment Insurance Board during both Level One and Level Two appeals found a court reporter to be an independent contractor and not an employee and thus denied unemployment benefits. The claim inspired the EDD to audit my business. After six months they made a determination that all of my reporters are, indeed, independent and self-employed contractors.

This is good news for all my California firm owner friends. Actually, come to think of it... this is good news for firm owners nationwide.

And here is how everything went down...

### Some Background Information - In the Beginning

Around June of 2014 I got a complaint about a reporter from a client. The complaint was that the reporter was unprofessional and rude. The kicker was that when the transcript arrived it had “holes” in it. In other words, the attorney specifically recalls asking certain questions and saying certain things that were subsequently not in the final transcript. I investigated the matter internally and found that there was a larger pattern of misconduct by this reporter. She had been banned from at least three other law firms and had a pattern of mistake-ridden and tardy transcripts. At that time I chose to not utilize this reporter’s services any longer.

I heard through the grapevine that the reporter may try to seek unemployment benefits. (I’ll graciously forget to mention in the record here the part where she boasted that this action on her part would likely trigger a full blown audit and be the source of a major headache for me. Which it did and which it was.) So she did. Sure enough, within a few weeks the reporter filed a claim for unemployment benefits with the Economic Development Department (EDD), as it is called here in California. Around the end of July, 2014 I received a “Notice of Unemployment Insurance Claim” from the EDD. I responded quickly and thoroughly including this redacted letter:

**“The reporter was an independent contractor not an employee. As is the norm in the court reporting industry, the reporter was paid on a job-by-job basis and got issued a 1099 each tax year. She is her own business with her own clients and business expenses. The reporter was not exclusive to me in any way.”**

I also included information about a tax court case where a court reporter was found to be an independent contractor not an employee:

**March 7, 1996**  
**T.C. Memo. 1996-107**  
**Electronic Citation: 96 TNT 48-13**  
**Microfiche Number: Doc 96-7067**  
**(8 pages)**  
**Docket Tax Ct. Dkt. no 18712-94**  
**Section 61 - Gross Income Defined**  
**Judge: David Larod**  
**John Prior Green, pro se**  
**Bruce G. Warner, for respondent**

Continued on page 47

# Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 46

About a month later in August, 2014 I received a call from an EDD employee working from their Sacramento office. He interviewed me during this phone conversation. He had received my response to the claim and had a few more questions. I answered his questions and then he stated right there on the spot that he found there to be no employer/employee issue; that the reporter was not eligible for benefits; that nothing had been paid into the tax system; that there were no earnings showing; that the reporter can't show wages in the base period; and that the claim was not valid. Within a few days I received a short but sweet letter from the EDD employee which basically went like:

***"Dear Todd,  
No determination or ruling will be issued because this claim is invalid.  
Love,  
-EDD  
PS. XOXXOXO"***

Ok, I added the frilly stuff for fun. But the letter was clear: the claim was invalid. I.N.V.A.L.I.D. I was thrilled. End of story; right?

Hardly.

***"You may have to fight a battle more than once to win it."  
-Margaret Thatcher***

## A Second Bite at the Apple

A few days later to my surprise I received a phone call from a different EDD employee — this individual worked out of their San Bernardino office this time — asking me similar questions as the first guy. I was confused. I thought this thing was over? Nope. The court reporter apparently had filed a second claim. I had no idea that such a tactic was possible but, indeed, it is possible.

The second EDD employee asked me a litany of questions regarding the nature of my relationship with the reporter. What kind of controls did I have over her; did she have the ability to not take assignments; was she potentially a competitor of mine; how much did she get paid, etc, etc. I answered everything truthfully and clearly. I soon realized very quickly that sometimes the right hand does not know what the left hand is doing. She had no knowledge of the first claim this reporter had made that just days previously was struck down. And she certainly had never seen my response letter or any of my evidence. So I faxed everything to her immediately.

***"Sometimes life hits you in the head with a brick.  
Don't lose faith."  
-Steve Jobs***

After a few weeks of not hearing back anything from the EDD -- this is early September, 2014 by now -- I called the second EDD employee. I spoke with her briefly about whether or not a ruling had been made on the employee vs. independent contractor issue. She said yes. And her ruling was that the reporter should have been on payroll during her tenure with me. I felt like I got smacked in the head. I disputed her decision and tried to field more information about her rationale but she said it was now out of her hands and that I would receive notice of this determination from the EDD at some point. I asked how long that would take and -- very typical for government agencies -- she gave me a helpful and definitive *"I don't know. Pretty soon."*

***"He who represents himself has a fool for a client"  
-Abraham Lincoln***

## This Means War

Once I realized that the EDD was determined to find this reporter to be a misclassified employee rather than what she was -- an independent, self-employed contractor -- I knew I needed professional help. And I don't mean a shrink. I already had corporate counsel. Now and then things arise where I need a letter drafted for this or that issue. I've also got a litigator who represents me in court trying to get me paid. But I did not have anyone expert in tax matters or with dealing with the EDD specifically. So I consulted the oracle, aka Google. I found around a dozen attorneys and called each one. I personally was able to speak to about half the candidates and I narrowed it down ultimately to one firm. I retained Golding and Golding in Newport Beach, California. I found Sean Golding to not only be brilliant but warm and personal. We clicked. I felt he "got it" -- that he understood what a court reporter was; understood the nature of how a court reporting agency works; and most importantly of all, understood that the EDD was making a mistake.

One of the first things that Sean and I did was to look over everything that I had already submitted on my own to the EDD. That is where many times his clients have shot themselves in the foot by lobbing something dumb into the mix and making an already dire situation even worse. So I nervously showed him all of my correspondence and relayed to the best of my ability the verbal communications between me and the two EDD employees. After some discussion, Sean told me I had not been too dumb and actually had done

Continued on page 48



## Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 47

pretty well on my own. I was glad that I hadn't inadvertently made his job any harder than it already was. Phewwww!

Still, there was a big mountain to climb. I had heard that California and the EDD are very employee-centric; that they are just crazy in love with employees. With employers, not so much. They want to classify everyone and their mother as an employee for one reason and one reason only: more collectable taxes. And an employer is guilty (of misclassifying workers as independent contractors) until *proven* innocent. Again, it's a big mountain to climb.

I knew about the IRS' 20 Factors test (<https://www.mdc.edu/hr/Operations/AFS/IRSFactorTest.pdf>). I knew about the EDD's own DE 38 test ([http://www.edd.ca.gov/pdf\\_pub\\_ctr/de38.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de38.pdf)). I knew about NCRA's provided information regarding this issue (<http://www.ncra.org/Government/content.cfm?ItemNumber=9437>) But Sean and I went through all of the specific factors regarding this court reporter and it all boiled down to one single factor: control.

### Control Freaks Beware!

(Nothing about the following is meant to be legal advice. I'm not an attorney so consult one if you find yourself in a similar predicament.) Basically, what I learned from Sean was that control is the single biggest issue regarding whether or not someone is an employee or independent contractor. Paying someone via 1099 is not; having an independent contractor's agreement is not; both sides agreeing on this or that is not. Control. How much "control" do I as the agency owner exert over the reporters? That is the crux of the matter.

### The Thing about Written Independent Contractor Agreements

I hate to put it so contradictorily but having a written contract in place with an independent court reporter is kind of a waste of time BUT not having one is kinda dumb. (Reminder that I'm not an attorney. Take all this with a grain of salt and consult your own attorney.) They are a waste of time in the sense that you cannot contract your way around labor code. It's all about what you do -- not about what you say you're going to do. The EDD was going to look at the nature of my working relationship with this reporter in the day-to-day operations of running my agency. The gravity of that far outweighed any written agreement we may or may not have signed at one point. Still, I think it's kind of dumb to not have a written agreement simply because it points to the intent about the nature of the relationship. It's nice to be able to whip out a piece of paper and say:

***"Here... here is the smoking gun of written evidence that I have with this self-employed, independent subcontractor performing court reporting services***

***for me (as well as my competitors) who accepts assignments at will, who holds himself/herself out to the community as their own business entity, who provides their own equipment and training, who operates under the same risk and reward free market system that I do, Your Honor."***

In case you're wondering, though, with this particular reporter I did not have a written agreement. Our agreement was oral. Which, it turns out, was just fine.

### Christmas in September

Around the middle of September, 2014 I received a Notice of Wages Used for Unemployment Insurance (UI) Claim" which said the EDD considered 100% of the commissions I had paid her as if they were employee wages. Thus she would receive \$450.00 per week whether she was naughty or nice. I couldn't believe it. Is this the law? That an independent contractor who did not pay one red cent into the employment tax base may still withdraw unemployment benefits was unbelievable to me. Apparently Christmas came early for one reporter last year.

The one ray of ~~false~~ hope was that the form also notified me about my right to "Request a Ruling." Sean wrote, in my opinion, a brilliant ruling request wherein he cited all of the salient factors about why this reporter should not be classified as an employee but as an independent contractor. Exhibit A -- literally the very first exhibit -- was a screenshot from this reporter's own Facebook page where she calls herself a "self-employed court reporter."

Our ruling request went on to describe the nature of the court reporting industry in general -- that 90% of court reporters are independent contractors unless they work at a courthouse. And then we listed 16 DE 38 factors in my favor. Here are some of them:

- I exercised no control over the work outcome. (Merely where and when to appear at a deposition.)
- I have no employees who perform the same type of work.
- I furnish no training, tools, equipment or supplies.
- Reporter was free to perform the work as she would like in accordance with her own training.
- Reporter purchased all her own equipment.
- Reporter paid for all of her own training.
- Reporter made her own business decisions.
- Reporter hired her own staff members (scopists and proofreaders).
- And on and on...

Continued on page 49

# Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 48

Our second argument was that in the reporter's own notice of unemployment claim, she admitted to receiving complaints from me about her work performance. And even if -- for the sake of argument -- the EDD still finds her to be an employee and not an independent contractor -- she's absolutely not but just assuming *arguendo* -- she still should not receive benefits because she was discharged for a "pattern of unprofessional behavior and misconduct." Being discharged for misconduct has this sort of nullifying effect on a person's ability to receive a check from the government, as it rightly should have.

When we sent the request for ruling off to the EDD, I was pretty sure that they would welcome the clarification and get right to work correcting the mistake.

*Optimists are usually inexperienced."*

- Wayne Gerard Trotman, Veterans of the Psychic Wars

## My Fear of Mushrooms

Let me pause briefly. I hate mushrooms. My whole life those squishy, slimy little suckers have grossed me out. But you know what I hate even more? I hate little problems mushrooming into bigger problems. The little problem of a disgruntled court reporter filing for and receiving unemployment benefits is one thing. The "hit" to my reserve account at the EDD notwithstanding, it's a relatively minor problem. But in my mind this thing could mushroom cloud into something much larger and far reaching. My nightmare scenario goes something like this:

***A California court reporter seeks unemployment benefits. EDD considers court reporter an employee. Court reporter receives \$\$\$\$. EDD seeks to consider all court reporters as employees. EDD receives \$\$\$ from all court reporting agencies in California. IRS hears about EDD receiving big \$\$\$ from California agencies who misclassified court reporters as independent contractors. IRS seeks to do the same nationwide and receives \$\$\$ from all agencies everywhere forevermore.***

*"We don't want the smoking gun to be a mushroom cloud."*

-Condoleezza Rice

It's no exaggeration to say that I have lost sleep over this mushroom cloud nightmare. Not only for myself and my business but also my firm owner friends throughout all of the United States. I believed this EDD matter was an existential threat to the whole court reporting industry. The last thing I set out to do when I started my agency was to get embroiled

in some tax and labor fight. One thing that set my mind at ease, however, was the notion that if the court reporters taking jobs from my agency were not, indeed, independent contractors... then there is no such thing as an independent contractor. In my opinion, there is no clearer example of a true contractor/independent contractor relationship out there.

## The EDD Did Not See Things My Way

I learned that "requesting a ruling" from the EDD after they have awarded benefits to a claimant is a long shot. By mid October 2014 the EDD wrote a "Notice of Determination/Ruling." Predictably, they did not see things my way. But their response was surprising:

***You discharged the claimant for not performing the work to your satisfaction. After considering the available information, the department finds the reasons for discharge do not meet the definition of misconduct connected with the case. Your reserve account will be subject to charges.***

They did not bother to address any of the control factors we cited. (*Non-control factors, to be more accurate.*) Their response avoided those facts and went straight to a secondary issue of whether or not she was discharged for misconduct. I don't know if being banned from clients' offices is sufficient reason to discharge someone from the EDD but in my world, it most definitely is. Most heartbreaking, though, was that I personally doubted they even read Sean's great letter.

Their letter concluded with *you have the right to file an appeal...* and provided instructions thereto. Heck yeah, I was appealing. But first I had to marshal some support from the troops: the good people over at the Deposition Reporters Association.

## The Deposition Reporters Association (DRA)

The DRA is a wonderful association dedicated to the advocacy of deposition reporters. I am proud to have been a board member for three years. So I called one my good friends, past DRA president Toni Pulone who herself owns an excellent reporting firm in San Jose. Toni was extremely supportive to me about this matter and said she would enlist the help of DRA's attorney, Ed Howard. Additionally, DRA has a "War Chest" of monies reserved for protecting the interests of reporters in California. We talked about possibly using war chest money to help defray my legal costs. But that wasn't my concern just yet. I needed to get ready for the appeal hearing...

Continued on page 50

## Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 49

### Level 1 Appeal Hearing December 15, 2014

The first level appeal was before an Administrative Law Judge. And it's not really held in a courtroom, per se, but rather an office building with small conference rooms set up for hearings. The judges are usually former attorneys which I felt was an advantage since attorneys are more inclined to know and understand the role court reporters play in the legal process. True to form, my judge in this hearing knew exactly what a court reporter was and -- even more importantly -- how deposition reporters worked.

Despite the casual surroundings and the professionalism of the Administrative Law Judge, truth be told, I was nervous for this hearing. I'm not good at conflict. I became a court reporter because I don't like being the one in the room talking. I prefer to be more of a fly-on-the-wall.

The judge started off by asking me various questions about the nature of my business. *How did we operate? What services did we perform? Who were our clients?* Then he moved on to more specific questions about this particular reporter. *How did she come to take assignments for my company? How long did she do depositions for me? Did she have her own equipment. How was she given assignments? Did she ever refuse assignments?* Again, the crux of the questioning was about how much control I exerted (or did not exert) over her.

Additionally, we supplied tons of evidence to support our side that this reporter was a) an independent contractor and not an employee; and b) discharged for misconduct. A partial list of evidence included:

- List of client complaints.
- List of clients who banned this reporter.
- Facebook page screenshot showing the reporter put herself out to the world as self-employed.
- Proof she had her own employees (she had a scopist and proofreader).
- Proof she had her own clients.
- Proof she took assignments from other agencies.

After my turn, the judge turned his attention to the reporter. She did not come represented by counsel and so she did her best to make her own case. She basically recited the same things she had alleged in her original claim: that she was treated like an employee and should be considered one in the eyes of the EDD.

During all of the exchanges, The judge maintained an excellent poker face so there was no way to tell which way he was leaning. After perhaps two hours, the hearing was done. Sean and I left the hearing and conferred outside in the parking lot. I felt pretty good about how things had gone. Sean was more cautiously optimistic.

### My First Win

I expected the results to take a few weeks but the judge wasted no time in making his ruling. In summary he wrote: *"The department determination is reversed. The claimant is not considered an employee."* He crafted it and mailed it to us the same day. Here is a redacted portion of his decision:

***"Findings of Fact: The claimant was paid as a 1099 contractor. The claimant was offered job assignments by the employer that she was given discretion to accept or reject. If the claimant chose to reject an assignment, she could continue to receive other assignments from the employer. On more than one occasion, the claimant did, in fact, reject assignments from the employer because she was still finishing other assignments. The claimant was also free to accept work from any other source, for the same type of work, without the employer's permission.***

***The only directions the claimant was given for a job was where and when she needed to show for an assignment. After the scheduled deposition or hearing to which the claimant was assigned concluded, the claimant would prepare a transcript of the deposition or hearing. The transcript could be completed on the claimant's own time, in her own location and manner with only an expected deadline set by the employer.***

***The claimant supplied her own equipment, which she brought to each job, that she paid for and maintained herself. The claimant also had a professional license that she maintained herself, with no monitoring or funding by the employer.***

***The employer was simply a matching service for court reporters and did not employ any in-house court reporters. Each assignment was paid on a job-by-job basis.***

***Accordingly, the claimant is not considered an employee of the employer and the payments made by the employer to the claimant are not considered wages."***

In addition to the primary factor of the right to control the manner and means by which the work was completed, the judge also included some secondary reasons for his decision:

- The extent of control which may be exercised over the details of the work;
- Whether or not the one performing services is engaged in a distinct occupation or business;
- Whether the work is usually done under the direction of an employer or by a specialist without supervision;
- The skill required in the particular occupation;
- Who supplies the instrumentalities, tools and place of work for the one performing services;

Continued on page 51



# Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 50

- The length of time for which the services are to be performed;
- The method of payment, whether by time or by the job.

I was elated at the win but I knew we were not out of the woods yet because at the very back of the judge's decision was a little sentence that said, *"If you disagree with the unfavorable CUIAB Administrative Law Judge's decision, you must file your Board Appeal within 20 calendar days..."*

## Two Against One - Level 2 Appeal Hearing

True to form and not surprisingly, the court reporter filed a 42-page document as her second level appeal. I wasn't worried because she offered no new evidence or case law, only reiterated her opinions from earlier. Also I doubted that the second level judges would entertain 42 pages of partially handwritten/partially typed notes.

What was most shocking, however, was when Sean called me a few days later and told me, *"Man, you must have really pissed somebody off at the EDD."* I gulped and said, *"What do you mean?"* He said, *"The EDD themselves filed their own second level appeal along with a 10-page legal argument. I've never seen something like this before."*

So now it was going to be the reporter plus the EDD fighting against me at the second level appeal. This was getting frustrating as well as troubling. I'm not one prone to conspiracies but a little part of me couldn't help but feel there was some personal vendetta out to get me at the EDD. I had no basis to think that, but that's how it felt at first. And worse, there was nothing to do except wait. I hate not being proactive in things like this but Sean told me *"at this time we cannot file any opposition or objection since the Board has not yet identified whether they will consider it."*

## Meanwhile, Back at the Audit February 11, 2015

I've never been audited before so all of this experience was new and kinda frightening for me. There was a pre-audit questionnaire that requested that I make available records for the period of 10/1/2011 to 9/30/2014. Just a couple things. No biggie. Here's the list:

### 1. MINIMUM REQUIRED RECORDS

**Sections 1085 and 1092 of the CUIIC require all employing units to make business records available to the EDD during normal business hours. These records include:**

- Check Registers, Check Stubs, Canceled Checks, and Bank Statements
- General Ledger and General Journal
- Annual Financial Statements (Income & Expense statements, Balance Sheet, etc.)

- Cash Payments Records (pay-out slips and vouchers)
- Ownership Verification
- City Business License
- Board of Equalization Sales Tax License
- Any license required to operate your business, such as a liquor license, California State contractor's license, etc.
- Written Agreements (for example, Partnership Agreement or Articles of Incorporation)
- Federal State income Tax Returns
- Form 1099 Series, Federal information Returns and Worksheets

### 2. ADDITIONAL RECORDS REQUIRED FOR VERIFICATION OF ACKNOWLEDGED PAYROLL

- Payroll records such as Payroll Journal, Individual Earnings Records, Payroll Summaries, etc.
- Federal Employment Tax Reports | Form W-2, Wage and Tax Statement Form W-4, Employee's Withholding Allowance Certificate Form 941, Employer's Quarterly Federal Tax Return Form 940, Employer's Annual Federal Unemployment Tax Return
- State Employment Tax Reports | DE 9, Quarterly Contribution Return and Report of Wages DE 9C, Quarterly Contribution Return and Report of Wages (Continuation) DE 9ADJ, Quarterly Contribution and Wage Adjustment Form DE 6, Quarterly Wage and Withholding Report DE 7, Annual Reconciliation Statement DE 678, Tax and Wage Adjustment Form DE 4, Employee's Withholding Allowance Certificate

I don't know how most people behave during an audit, but it was Sean's advice to fork over everything they asked for without hesitation and be as compliant as possible. So I did. I pride myself on being pretty organized when it comes to all my business records, but to be honest the list above was quite daunting. Fortunately, I've retained the same accounting and CPA firm since I started the business. They have been absolutely phenomenal in keeping all of my returns in order not to mention all of the payroll reports and a hundred other minute but ever-so-important details that go into running a business in California. I use a gentleman by the name of Tejas Mehta who has kept me in compliance with both the State and Federal governments since the beginning. So I worked closely with Tejas during the ramp-up to the audit. My office and I spent days printing everything out and making cover sheets with titles. Then I scanned everything into PDF format and copied them into nicely organized folders onto a USB thumb drive to give to the auditor.

Continued on page 52

## Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 51

All total the above items tallied up to be over 2,000 pages of documents.



My dream team consisted of my attorney, Sean Golding, my CPA, Tejas Mehta and myself.



Left to right: Sean Golding, Esq., Todd Olivas, CSR, Tejas Mehta, CPA

The EDD auditor arrived right on time and the four of us proceeded to the conference room. The auditor was a young, whip-smart guy. He was no nonsense but seemed fair and reasonable at the same time. He said he appreciated that I was so organized for producing all the documents for him. Then he got right to work taking a sample year and entering numbers into his laptop. Quietly, he would enter data in and we would stare at him. Then he would reach for another pile of documents, enter those in. Minutes would go by. Silence. Number crunching. Ten minutes. 15 minutes.. Then he might

look up for us to clarify a question or two. *“What’s this? Where’s the detail report for that?”* We would answer him and occasionally Tejas and I would have to run back to my desk to print out more fine-tuned reports and documents that he requested. Then it would be silence and more data-entry. More minutes passing. More clarification questions. More data entry.

To be honest, it was an uncomfortable morning for me. Even though I knew I had nothing to hide, when the microscope inspects everything you’ve ever done for the past three years, you start to second guess yourself. It’s like a stress test. You know you’ve done everything the right way -- in as much as you know how to -- but until the test is over, you feel the discomfort of the hot seat.

Midway through the morning, the auditor looked up and revealed his findings about my payroll. Everything matched to zero. In his own words he said something like, *“I rarely see that.”* There was one minor discrepancy that I had over-withheld \$3.15 from one employee but that was likely due to an error on the EDD’s own side. No matter the reason my CPA, attorney and I let out a sigh of relief on the payroll issue.

Still, we were only half way through this. There was still the matter of this court reporter claiming to be an employee. The reason it mattered so much to the auditor, of course, is not so much about that individual court reporter’s story but about a much larger issue. *Is she just the tip of the iceberg? Are there more court reporters that the EDD needs to investigate, reassess and collect taxes on?* And while the dispute about her receiving benefits still lingered in the appeals process, in order to do that he said he required to conduct interviews with five other court reporters who I had used during the test year of 2013.

At the conclusion of the audit, the auditor gave no indication of which way he was leaning on the court reporter classification issue. And his best guess as to the length of time to make his determination was approximately 30 days. We handed over the contact information for the five names he wanted. And as we shook hands and parted ways that day, no one would have guessed that it would actually take another six months before this thing whole thing would be over.

### My Second Win February 20, 2015

Just days after the EDD audit, we got a letter from the California Unemployment Insurance Appeals Board with my second win. The way the second level of appeals goes is two judges independently reassess the evidence that has already been entered into the record. They listen to the audio of the hearing, read the first administrative law judge’s decision and come to a decision about whether or not they agree. No new evidence is usually admitted. If both judges come to the same conclusion, then whichever way they agree upon is the way

Continued on page 53

# Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 52

the appeal goes. If they disagree, then a third judge is called in to assess the case and play the role of tie breaker. In my appeal, only two judges were required to decide that:

***“In this case, the evidence supports the conclusion that the claimant was an independent contractor for Olivas & Associates. The claimant was not an employee and Olivas & Associates was not a temporary services employer or a leasing employer under provisions of code section 606.5.”***

***“The Employment Development Department has submitted additional evidence. This information should have been presented at the hearing. The parties have due process right to review and rebut any evidence considered by the administrative law judge. We have not considered the additional evidence in our deliberations because it would violate due process to consider it at this time and there is no compelling reason set forth why the additional information or evidence could not have been submitted at the hearing. (Precedent Decision P-B-144.)”***

This second win at the appeals level was a huge relief for me. The court reporter and the EDD had exhausted their administrative rights. And it felt very good to have the legal backing of now three independent judges who saw things my way. Which, between you and I, were things that I had been saying along -- that this court reporter was not an employee but rather a self-employed, independent contractor.

Still, there was a third bite at the apple possible for the court reporter and the EDD. At the back of the ruling there was some instructions about “further appeal rights.”

***“The Appeals Board does not process petitions for court review. You must file such petitions directly with the Superior Court not later than six (6) months after the date of the decision of the Appeals Board.”***

Basically claimants (as well as the EDD) who are recipients of adverse decisions can seek a writ of mandate in Superior court which would effectively be a judge striking down all that the administrative law and appeals board judges had done. This would elevate this matter to a whole new level. And -- lucky me -- I only had to wait six (6) months -- another half of a year of my life -- to see if they would go there. Judging by my calendar, August 20, 2015 was the deadline for either one or both of those parties to file a for a writ of mandate.

But for now at least, we had the win at the second level of appeals which is what the auditor was waiting for in order to finalize his audit. So we forwarded the decision over to him the same day and he guesstimated closing the audit mid March, 2015. The keyword being “guesstimated.”

## No News is No News

The mid March target came and went. By late March 2015, Sean inquired with the auditor and didn't hear back. I jotted down some notes regarding our attempts at communication:

- March 2015 - end of March, Sean inquiries with auditor. Nothing.
- April 2015 - no news.
- May 2015 - no news.
- June 13, 2015 - Sean follows up... no response.
- July 7, 2015 - Auditor finally surfaces. Says he needs three (3) more contractors in order to wrap up the audit. We provide him the three he requests. More waiting.
- July 13, 2015 - EDD auditor writes short email stating that he is going to find court reporters to be independent contractors not employees!

After a long year of dealing with this issue, the end of it came about in kind of an anticlimactic way. An email from the auditor to Sean stating succinctly, “*Court reporters not found to be employees. I will contact Mr. Olivas to provide him with some further details.*” A slightly longer letter from the auditor arrived a few days later stating:

## AUDIT RESULTS

***“The audit covered the period April 1, 2012, to March 31, 2015, and resulted in the following findings: No differences were disclosed based on the audit tests performed.”***

“No differences” means no taxes due, no court reporters misclassified, no more audit! I'm not sure how I imagined I'd feel when I finally could hold that piece of paper in my hands stating it was all done. I felt relieved. I felt tired. I had literally lost much sleep over this. It put me in bad moods and I let it ruin many otherwise happy moments. Still, I felt grateful that the system had worked; that my court reporting industry was spared some tectonic plate shift of operating practices. I felt blessed that I had found Sean and that Tejas my CPA had been so on top of the payroll withholdings all those years. What I didn't feel was that the EDD was “out to get me,” like I had briefly toyed with early on. Truth be told, I didn't even feel angry at the court reporter who set the first domino in motion either. There's a good chance that she will have to pay back all the monies she received from the EDD in benefits. But that's none of my business. I wish her no harm. Hopefully, she can learn from this and become a better reporter because of it. (At some other agency, of course.)

I don't know for sure why the audit took five months. The auditor who we worked with was very fair and professional.

Continued on page 54



## Court Reporter Found to be Independent Contractor by California Appeals Board and EDD Audit

Continued from page 51

My best guess would be that his higher-ups or perhaps the legal department at the EDD didn't want to give up its right to file the writ of mandate. So as they surveyed that strategy for awhile, my audit (and auditor) languished. All the while I sat on pins and needles. But that's something I'll never know about. So I'm not going to lose any more sleep over it! ;)

### Last Chance

August 20, 2015 passed without incident. That was the last chance for the court reporter or the EDD to file a writ of mandate. Nothing was filed, putting an end to the entire matter. I could now get back to running my court reporting business and writing this ridiculously long blog post.

### Lessons Learned

- After all was said and done it was determined that all along I had correctly classified court reporters as independent contractors. Lesson learned: Even when you are doing the right things, sometimes you still need to prove it.
- The entire experience took over a year. Lesson learned: Big problems can take a long time to resolve. You've got to treat it like a marathon, not a sprint. And you've got to stay positive and know that someday there will be an end to it. Keeping hope alive that things will turn out okay is vitally important so you don't make dumb decisions out of frustration along the way.
- The EDD is just doing its job. Lesson learned: They are people too and don't have any personal bias against my company or anyone else.
- There is a form that I needed to have been filing that I wasn't. It's called Form DE542. Lesson learned: I need to file DE542s for every contractor I use.
- I relied heavily on my team during this experience. Lesson learned: Having excellent counsel in legal and financial areas is not just recommended but imperative.

### My Advice to Court Reporting Agencies

Again, I'm not an attorney much less some hero of the court reporting agency world. Still, I did just have a valuable experience for us all. Here is what I would advise any of my fellow agencies:

- Don't control anything about the reporters you use except when and where to go to perform the deposition service.
- Don't buy any equipment for your reporters.
- Don't pay for any training or CEUs.
- Don't pay for business cards.
- Don't provide space for them to work at your office.
- Don't call them "staff reporters." That term could be misconstrued as treating them like employees.
- Don't have some reporters who are employees and some who are contractors.

- Don't offer health or any other kind of employment benefits.
- Don't require reporters to only take jobs from your agency.
- Don't require reporters to attend meetings or stick to a schedule that you dictate.
- Encourage reporters to incorporate or at least get a DBA.
- Encourage reporters to work for multiple agencies not just yours.
- Encourage reporters to have their own clients (not yours, of course).
- Encourage reporters to hire scopists and proofreaders (This helps not only expedite transcript turn-around times but also shows they have their own employees.)
- Do have a written contract spelling out all the above.

*"Consider it pure joy, my brothers and sisters, whenever you face trials of many kinds, because you know that the testing of your faith produces perseverance."*

- James 1: 2-3

About the Author: He is an entrepreneur, musician, educator, and published author. Todd served on the board of the Deposition Reporters Association from 2009 to 2011. With his commitment to court reporting excellence, Todd Olivas chooses to work with only the best court reporters. His reporters are long term licensees and share the same professional ethics as the company's founder.

*"In 1991, I walked into a court reporting agency for the first time. I had just been hired to work in the mailroom. Before long, I worked in production, detailing, and shipping -- almost every single department. And no one was more surprised than I was about my growing passion for the field of court reporting so I took the plunge and enrolled in court reporting school. Man, was I in for an adventure."*

-Todd Olivas

# A Bold Escape with an Oaky Finish

By Richard S. Sciré, RPR



(Left to Right: Betty Llorente, Michael Sciré, Michael Barfield, Richard Hersch, Richard Sciré, Varinia Van Ness)

It was the anticipated vacation of the year. Our California excursion among my twin brother, Michael, and me, along with our four legal friends got more than we bargained for with our sense of adventure. Planning the trip started five months earlier. Our party consisted of two criminal defense attorneys, a paralegal, a judge, and two court reporters. To keep things extra confusing, we had two Richards and two Michaels.

Varinia Van Ness, a Sarasota criminal defense attorney, and Richard Hersch, a Miami judge, started the planning for this trip. They soon invited Betty Llorente, a Miami criminal defense attorney, who has traveled with them previously to California. My twin brother, Michael Sciré, and I were invited next, followed by friend and paralegal Michael Barfield, rounding out our group.

Our trip started in San Francisco where the hotel we stayed in just so happened to be the location where the California Judges Association was hosting their annual convention at the same time. One judge we met not only previously wrote an article for NCRA's *Journal of Court Reporting* but also invited me to share the article in *FCR Online*, which was in our winter 2017-2018 issue. It also just happened to be Fleet Week. Watching the Blue Angels was an unexpected surprise as was the rooftop private party we happened upon during a spontaneous invite,

thanks to the friends of the paralegal in the group, Michael Barfield. After one day in San Francisco, we headed to Muir Woods and Sausalito for a day trip before heading to the lavish home we rented in the Silverado neighborhood in Napa Valley through VRBO (Vacation Rental By Owner), where we planned to spend the next six days in wine country. We moved into the Napa house quickly and had the ultimate California experience, complete with wine and cheese on one of two elaborate patio decks. A party from a PGA event at the Silverado Resort Country Club could be heard from a block away.



The long day and jetlag would have everyone turning in early that night. None of us could get the television working, which wasn't a big deal since none of us wanted to watch it anyway. I would go to sleep last that night, just around 11:00, after a phone call with a friend back in Sarasota. I enjoyed the night breeze until the wind picked up. That night I decided to sleep in the living room on the long custom sofa's queen size daybed in the sunk-in living room, leaving both patio doors open so I could enjoy the cool cross-ventilation. The five-bedroom, four-bathroom house gave us all plenty of space, so I knew nobody would mind me claiming a portion of the large living room for one night instead of my respective bedroom. Before

falling into a deep sleep, I remember thinking how incredibly comfortable I was and then darkness fell upon me.

It was approximately 40 minutes later that I awoke to pandemonium. Sounds of urgency filled the house as my brother woke me and commanded me to get up. Nobody knew I was nestled into the comfortable sofa under the many pillows and blankets in the sunk-in den, so everyone kept running by me. It took a few seconds in my groggy state to learn what was going on, but it wasn't until I was in the car heading for nowhere that I was able to fill in the blanks.

A fire started in Napa Valley that quickly spread. As Floridians, we are used to advanced notice when a hurricane is coming. Nothing could prepare us or anyone for a flashfire. It was shortly after falling asleep that Betty received a text from a college sorority sister

living nearby stating our neighborhood was on fire. Text and phone warnings normally reach everyone in need of evacuation in the area except for us Floridians. Additionally, the house did not have a landline so a warning phone call could not be received. The fire wasn't just in our area. It had started in our neighborhood, specifically, right near the PGA party we had heard just a couple of hours beforehand. The party guests and neighbors were now filling the streets in their automobiles in a gridlock traffic that would have evacuees in a race against time. Betty quickly woke up Michael Barfield in a bedroom on the opposite side of the house, who was familiar with the area. An orange glow already filled the sky.

Before the trip, Barfield was on another vacation. During his trip to Montana, he fell and hit his head and got a concussion. His misfortune would be our blessing. Because we had planned to tour so many vineyards, we knew driving would not be an option. That is until Barfield advised he would not be drinking on account of his concussion and medication and would, therefore, be renting a car. Without his SUV rental,

we would have no way to escape. While we raced to pack our essentials, Barfield got in his vehicle and headed down the street to get accurate information from law enforcement. He asked an officer how much time we had. The officer declared we didn't have any time and then stated no more than five minutes. Barfield ran back into his SUV after seeing the fire come over the hillside, spreading toward them as quickly as if the land had been covered in kerosene.

Barfield pulled into the driveway and left the car running. It was at that moment that Betty knew we were in trouble. She wakened my



brother while Barfield woke up Richard Hersch and Varinia. Luckily, not everyone unpacked. Those of us who did, myself included, packed everything in seconds. My out-of-body experience and adrenaline rush made me forget that I never even took my

clothes off the hangers. Varinia went to the kitchen to grab all the food we bought hours earlier to stock the house, not knowing if we were going to end up in a shelter.

We got out of the neighborhood in minutes and, with the invitation of Betty's sorority sister, went to her house. It wasn't until seeing it on the news that reality really set in. Our neighborhood, including the Silverado Resort Country Club, was already on fire.

We stayed with Betty's friend and her family for an hour or so to figure out our next move. The gracious invitation to spend the night just simply wasn't feasible for the kind family with whom we barged in. Unbeknownst to us, they, too, would be evacuating hours later.

We found a motel out of harm's way that could accommodate us. It was then Barfield realized he left his laptop behind that had all of his work on it.

The next morning, the scene was even more chaotic. The motel was kind to give evacuees free breakfast. Our group met in the lobby trying to assess what to do next. Our options were to head home and end the trip, which none of us ultimately wanted, or to salvage



the trip any way we could. Heading back to San Francisco wasn't a viable option since the smoke was headed that way. Some of the vineyards we were going to visit were already gone. Judge Richard recommended trying to see which of the wineries we were going to visit were still open. That conversation was short lived as the motel staff were putting on their masks. Showering embers and falling ashes were filling the air as the smoke rolled in like a thick fog. Then Varinia came up with the perfect plan to head north, away from the direction of the wind and the fires. We headed first back to the neighborhood to see if the fire was under control so we could attempt to get the things we left behind, mostly the laptop. Police had the roads blocked off because the fires were still out of control. The fog of smoke was still getting thicker as time went on.

We spent the next several hours in Barfield's SUV as we headed to Lake Tahoe. On the way we stopped to buy new clothes for the freezing climate change. We stayed at a resort Varinia had stayed months earlier when she took her children skiing. Now we had our own apartments at this resort. We managed to salvage the trip and even found some local wineries where we met many other vacation evacuees.

After spending the remainder of our vacation in Tahoe, we returned to San Francisco the night before heading home to be near the airport. On our return, we learned from the homeowner of the VRBO house that the fires in Silverado were out and, miraculously, his house was among those still standing. Police were only letting certain people in. So, once again, we went back to the neighborhood. Barfield, Judge Richard, and Varinia were the designated friends to see if they could be allowed in. With a police escort, the three were taken through the neighborhood to the house. The fire had moved through Silverado like a tornado, randomly choosing houses to destroy. The house directly



across the street from our house was burned to the ground. Also among the destruction was a house where a couple married 75 years perished, just houses away from ours. When Barfield sped away back to the house to save us on that fateful night, he passed that house. The couple was likely asleep. Police advise not to go banging on doors to try to save people because there isn't time to save yourself and anyone else at that point, similar to when you're on an airplane and supposed to put your own oxygen mask on before helping the person next to you.

Barfield got his laptop while Varinia and Judge Richard gathered other things we left behind. While we were grateful to retrieve the rest of our items and salvage our trip, it is not lost upon any of us the lives, homes, and land that are lost and that we barely escaped death. In another twist of fate and serendipity, our house being saved wasn't so random. Upon returning to the home, Barfield saw water on the sidewalk and had a revelation. When we first got to the house and started to unpack the food we purchased, Barfield attempted to turn on the pool's heater, but instead, he accidentally turned on the irrigation system. The sprinklers were on for the five and a half hours before the fires evacuated us and stayed on the entire time. While the flowers and shrubs against the house were partially singed, the rest of the house and lawn were unscathed. The houses all round ours were not so fortunate.

Among the items we retrieved were two bottles of champagne my brother Michael won during a silent auction on our first day in California at the San Francisco hotel where the Judges Convention was, which we immediately popped open at dinner on our last night after getting it back. The new friendships we made were solidified, the old friendships we had strengthened, and toasting had never been sweeter.



# EZ Does It!



By Richard S. Sciré, RPR



For the past 14 years, I have been living a blissful life as an official reporter in the Twelfth Judicial Circuit, Sarasota specifically, and enjoying Case Catalyst for the duration of that time. Recently my software world came crashing when the inevitable finally happened but I reigned supreme once again with victory.

To understand my current situation, we have to return to the beginning in order to appreciate my triumph. Before I was an official reporter, I was a freelance reporter, happy with Eclipse NT, which was Advantage Software's latest and greatest product at that time. When I made the transition to Case Catalyst, it wasn't by choice. It was and still is a requirement for all the official reporters in Twelfth Circuit to be on the same software. Case Catalyst was the chosen software since the Manatee and Sarasota County reporters transitioned from Premier Power so many years ago now.

In the beginning, like anyone on a new software, it was a labor of love. Having gone through a similar change in software from the DOS days of Eclipse to the Windows-based Eclipse NT was a similar struggle but I was ready for the challenge again or so I thought. Getting a whopping 10 pages done in one day was only the beginning of the learning struggles with a new software. Then I learned the shortcuts and my life was forever changed. I never used the "Hotkeys," as they were called on Eclipse, but now I was ready to embrace Case Catalyst's EZ Keys. It turned out to be a simple transition. You program a letter to do a function and, coupled with the spacebar, it works. It's like macros but my fingers didn't have to leave the home row on the standard keyboard. I programmed the keys to perform what I was used to with Eclipse and the

rest was history! The learning curve dilemma was solved and I went on to live happily ever after.

It was while I was still enjoying the bliss of my newfound features in circa 2004 that I learned Stenograph was encouraging users to stop using EZ Keys and instead use macros and keyboard maps, where you can still reassign the letters but instead have to type the control key in lieu of the spacebar. According to tech support, the reason for it was that EZ Keys essentially work like a virus and that eventually, with updated systems, computers, and/or virus protection, they would eventually no longer work. Even the knowledgeable trainers were persuading such changes. My reluctance was my fingers leaving the home row of the keyboard and I just simply refused, deciding instead to enjoy my EZ Keys for as long as possible.

Flash forward now to 2009. The I.T. Department announced the court reporters would be getting new computers. While that is always exciting news, the announcement of a new operating system, Windows 7, came with it and had us worried we would be losing our coveted EZ Keys once and for all. When I called Stenograph, they confirmed the loss and, once again, recommended switching to macros and keyboard maps. I spent the next few weeks, in between court schedules and transcript deadlines, retraining myself on a new system, cursing the control key each time my poor little pinky had to press it instead of my strong thumb hitting the spacebar like I had previously done. Ready or not, the computers were changed. For old times' sake, I tried the EZ Key functions on my new computer for what I thought would be one last time as I mourned the fact that they would not work and be gone forever. Something

magical happened. My perpetual tears of sadness turned to joy as they worked! I couldn't believe it! I even called Stenograph to share the good news. Tech support didn't exactly share my joy. They were stumped why they worked and, again, lectured me about not using them. My I.T. Department offered possible explanations but, ultimately, I didn't care. I was just so happy they worked and I went to fight another day with my weapon of EZ Keys.

Flash forward to 2014. Our courtroom desktops were replaced with individual reporter laptops. Once again, I tried my EZ Keys, they worked, and I went on my merry way clicking my heels in the air while I jumped for joy.

Then last summer happened. It was July of 2017 that we were surprised with the announcement of new laptops and desktops. By now I completely stopped worrying about losing my EZ Keys since they've never abandoned me. The threats of the loss never amounted to anything and we made a great team tackling transcript deadlines for most of my career now. Well, my overconfident enthusiasm and sense of security thought we were invincible together but time was finally up and, after 14 years, we were forced to part ways. I wasn't the only one suffering the loss. Some of my coworkers were, too. I decided not to fret and finally embrace the macros and keyboard maps. After all, what other choice did I have?

The transition was frustrating to say the least. I sought out some other Case Catalyst users to see how they dealt with life without EZ Keys and just wasn't getting the answers I was hoping for. I plugged away for days, then weeks, and finally a couple of months. I still wasn't happy. Transcripts were taking longer to edit and my hands and arms were exhausted as they paraded around all over the keyboard. I knew there had to be a better way than forcing my poor pinky to have to hit the control key every time I wanted to do a command. I thought about eliminating the control key and just program the individual letter, like some reporters do, but then typing in the drops would be a pain. Not that any of us ever have drops (wink), but I didn't want to have to change the keyboard map every time I had to type in a word or more. And then I came up with

an idea that would seem like a great invention but I hoped it already existed. Luckily for me, it did!

Again, with EZ Keys, you hit the spacebar and the letter for the command. For example, I would hit the spacebar and the S key to scan to the next untranslated word or spacebar and J to move the cursor left and spacebar and K to move the cursor to the right. By changing the keyboard map, I would have to hit the control key instead of the spacebar and J for the keyboard map, which for me was much more cumbersome but interfered with things like job defines. That made me change job defines to be control plus the shift key and the letter J. That, too, was cumbersome.

I thought to myself how great it would be to have a keyboard you can completely program and one that has two spacebars. Not only did I find one, but I found several! In my search, I found a gaming keyboard. I didn't even know gamers had options for special keyboards but they do. There's no reason why we can't use them either. With a programmable keyboard



and a split spacebar (or two spacebars), I was able to program the left spacebar as a control key. Now I am once again hitting the spacebar and a letter just like the EZ Keys. So the right spacebar is the current spacebar and the left spacebar is now the control key.

There was still a learning curve and a few hurdles through which to jump. Those I solved with the extra gray keys on the immediate left side of the keyboard. Those are the G keys, G1 through G5. I made those G keys speaker designation keys (The Court, state attorney, defense attorney, the witness, and the clerk).

As with learning anything, there is still a learning curve. The placement of the split for the



spacebars took a little getting used to but was totally worth it!

Programming the keyboard couldn't be easier. A simple click on the "Keyboard Assignment" tab on the keyboard software gets you started. Then you click on the key you want to change and type in what you want it to be. It literally takes only seconds. I have been using it for about a month now and am still making adjustments as I see fit. I also changed the left control key to function as if I'm typing the shift and control keys together for some other features with which I won't overwhelm you.

While I found several options for this keyboard, the one I chose is the Cougar 700K Aluminum Mechanical 32 Bit ARM Keyboard with Cherry MX Black Switch (KBC700-21S), which I purchased on Amazon for \$99. The other color

options were a little more expensive but not by much. Some other options I have seen on other sites that I found appealing are still in the prototype stages. Not knowing if I would be happy with my purchase, I chose the least expensive. With my Amazon Prime account, I received it quickly.

So as I sit here writing this article for the present day, I once again have conquered the loss of my EZ Keys. My keyboard operates exactly the same way after 14 and a half years. I look forward to further success in the next 14 years. If gaming keyboards are proving to be this successful, the keyboards of the future can be our tool in a game we can all be certain to win!



Cougar 700K Aluminum Mechanical 32 Bit ARM Keyboard with Cherry MX Black Switch (KBC700-21S)

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## Reporters on the Red Carpet: Writing the Oscars

By Megan Rogers

In 1996, Tera Walker was a former court reporting student working as a flight attendant for United Airlines. She'd just launched a reporting company called Steno Scripts and had sent a proposal "to every awards show," she said. The Oscars contacted her because they didn't understand what exactly she was proposing to do.

Walker grabbed a couple of court reporting students and drove to Beverly Hills to demonstrate. They wrote about seven to ten minutes of *The Usual Suspects* with Kevin Spacey, cleaned it up, and printed it out. Walker recounted with a laugh that the transcript was still pretty messy, but the folks at the Oscars didn't read it — they were impressed with the quick turnaround.

At the time, individual journalists in the backstage pressroom would have tape recorders during the interviews. The result is easy to guess: The celebrities were often misquoted in the next day's newspapers, and their publicists weren't thrilled. Now, Walker and her team produce one verbatim transcript that gets distributed from the Academy of Motion Picture Arts and Sciences (AMPAS) to the media.

"We write the questions and answers between the International Press and the Oscar winners for AMPAS," explained Erika Sjoquist, RPR, CRR, who typically works as a freelancer in Camarillo, Calif. "After our product is finished, AMPAS puts it up on its website, and members of the International Press are able to get copies of the interviews as well."

Getting called to work the Oscars is a good example of "it's who you know." Both Sjoquist and Diane Rugh, RMR, CRR, a freelancer in Snohomish, Wash., got the job via Jeff Cobb. "He knew I had moved to California, but wasn't sure where," said Sjoquist. "Jeff was working with Tera Walker at that time, and the team needed a reporter to fill one of the spots." He reached out to her asking how close she was to Hollywood.

Rugh had a similar story. "I worked for a freelance firm in Seattle, and one of the reporter owners, Cheryl Mangio, RMR, CRR, CMRS, knew I loved movies. She knew the Oscars team that Jeff Cobb worked for was looking for a reporter, so she suggested me," she said, adding, "I knew I had been given a golden opportunity." Rugh recommended Carla Wallat, RPR, CRR, a freelancer in Federal Way, Wash. "Diane suggested that I would be a good fit to work with the team," said Wallat. "Ultimately, Tera Walker asked me to join."



2017 Oscars reporting and scoping team

The team is a mixture of veterans and newbies, but after a couple decades, there's a definite system. "After working the Awards for as many years as I have, the best part about it is being with the team," said Sjoquist. "Our team is like family that I get excited about seeing and catching up with every year." Team members travel from California, Washington, North Carolina, and Virginia. "We've turned Oscar Sunday into an Oscar weekend, usually beginning Friday evening, where we make sure we have time to visit, socialize, and have fun with some crazy activity before work on Sunday," said Sjoquist.

The team is comprised of several reporters, scopists, notetakers, and a runner (usually a court

reporting student), and they work with the AMPAS librarians. "The Academy librarians are incredibly knowledgeable about every category nominated, including past and future movies that the nominees have or are working on," said Wallat. Wallat worked as a notetaker in 2009 and then as a scopist for the team. "The notetaker is tasked with jotting down notes, such as the order of the speakers when they enter the room, spellings that need to be researched. Everything is at such a quick pace that the reporter does not have much time before the next winner may enter the room," said Wallat. The scopists "work closely with the Academy librarians and research staff to finalize the interviews."

Wallat said: "In my everyday work, I use a scopist on a regular basis, and after scoping for the Oscars, it has made me realize how valuable my scopist is. It challenges me to write cleaner so it makes her job easier, which in turn produces a quicker turnaround time on the transcript."

"The three reporters tag team, so I get every third interview that comes up," explained Rugh, which means, of course, that the reporters have to be ready for anything. "There might be two, three, five, or more people who show up for the interview of, say, the winner of Visual Effects, Sound Editing, Costume Design, and Motion Picture, and you need to know by the time they walk up on the stage, usually about three seconds, who each of them are and get their designations down," said Sjoquist. "The notetakers are very helpful in this regard. They match names to faces so that we can designate who is talking."

Jennifer Smith, RMR, CRR, CRC, an official in Mukilteo, Wash., found some similarities between writing the Oscars and both her work in the courthouse and her previous experience in captioning. "This assignment was more similar to closed captioning in the sense that you can't always see the questioner, only the Oscar winner who is answering the questions. In court, you see everyone who is speaking. Additionally, as in closed captioning, if you can't hear something or don't understand something, you cannot interrupt as you could in a courtroom. It's similar to court in that it's Q&A and verbatim."

"The writers have one shot to get all that they can from the interview. It's not like deposition or court work where you can interrupt the talent and say, 'Excuse me. Will you please slow down?' or 'What was that? I didn't catch that word.' Oh,

no. You're hoping to be able to understand and write accents from all over the world: French, Japanese, Indian, Spanish, Australian, English, Arabic, and Farsi, just to name a few," said Sjoquist. "The winners of the prestigious Oscars are excited. Can you blame them? And so, they often speak extremely fast. They're expressing gratitude to many people, whose names you hope to find the spellings of because you certainly can't ask them."

Rugh also added that the Oscars are different because "at a deposition, I'm not usually starstruck by the deponent whose acting has moved me to tears or that they are so stunningly beautiful or handsome I can't do anything but stare or have a stupid grin on my face!"

Preparation for an assignment like this begins with ensuring that equipment is in working order and gathering information. "We are required to have the latest update on our software," said Sjoquist.

"I managed to watch more movies this year than ever before, although I only ended up seeing one of the Best Picture nominees! Other than that, I built a dictionary of all the movie titles, nominee names, and then spent a bit more time researching the foreign films," said Smith. "The other reporters, Erika and Diana, helped me prep my dictionary for those the morning of. We sat in our hotel room and found out what we could. Lucky for me, Erika got to report the foreign film interview! Hands down, she had the hardest of the bunch."

"Carol Stone, the head scopist, prepares a list of the nominees every year and makes sure any new team member has the right layouts. Having done this for 11 years, I finally realized I don't need to put every single movie and nominee in my job dictionary because I will only end up using maybe 5 percent of it," said Rugh. "I have usually seen most of the nominated Best Pictures, but some of the things that come up during the interviews, such as names and places and people that the winner has collaborated with over their career, is beyond any prep I could do. That's where our talented and capable scopists come in, with the help of the AMPAS librarians."

"The day prior to the Oscar broadcast, we meet with the Academy personnel to go over the layout of the room, make sure internet connections work, and confirm the reporters' audio and page layouts," said Wallat.



Sjoquist is also on the team that covers the awards for the Screen Actors Guild and the American Federation of Television and Radio Artists (SAG-AFTRA), also a Steno Scripts assignment, which turns into good preparation the month before the Oscars. "The team we have for SAG-AFTRA is much smaller than our Oscars team: three versus 12. To me, it's not as stressful as working the Academy Awards," said Sjoquist. "We write the acceptance speeches for SAG-AFTRA. Security is lighter there, too, so we can walk freely among the talent for the most part, and then SAG-AFTRA has a party at the venue for its employees that we go to after the show." Perhaps the most fun part of prep work? "Find a dress and shoes!" said Wallat.

"We have so much fun when we play together, but we all individually take very seriously the work portion, which lasts on Oscar Sunday from 4 p.m. to after midnight," explained Rugh. "I would be remiss if I didn't mention that the three reporters are usually done writing the interviews around 10 p.m., but the scopists are still working for up to three to four hours after the live show has ended."

"The winners may not arrive to the press room until well after the broadcast is over. This puts a lot of pressure on our team because the press is anxiously awaiting the transcripts," said Wallat. "We have two hours after the broadcast is over to complete the transcripts."

Despite the fast-talkers, the long hours, and the pressure to deliver, working the Oscars provides memorable moments unlike any other assignment.

"The writers and notetakers sit in the front row, about 3 feet from the stage where the winners are standing. We are so close to the winners that one year, one winner, Jared Leto, actually handed me his Oscar so that I would confirm how heavy Oscar really is," said Sjoquist. "We loved Jared Leto; he just stole our hearts. And it wasn't just because he gave Erika the statute to hold," remembered Rugh. "She was trying to write, by the way, and I was too enthralled to try and take over writing for her! He was just so magnetic. And those eyes!"

"My most challenging year was 2011 when *The King's Speech* ruled the night with Best Picture, Best Actor, and Best Director. The interviewees had heavy accents, which made it take longer to finalize the transcripts," said Wallat. "The year Sandra Bullock won for Best Actress, she

looked stunning in her gorgeous form-fitting gold gown, but she said she wanted to relax and eat a burger."

"My most memorable Oscar moment was reporting the interview of Viola Davis. First, from a reporting perspective, she was a dream to write," said Smith. "I was so completely mesmerized by her grace and class that I literally forgot I was writing! There was a huge sense of relief when I looked at my realtime screen and realized I hadn't stopped."

"One year we all wore red dresses, and Meryl Streep, as she was walking offstage after her interview, said we all looked beautiful and reached out and took Tera's hand," said Rugh. "That was thrilling for all of us to even be acknowledged, but especially for Tera!"

*This article first appeared in NCRA's Journal of Court Reporting in the March 2017 issue.*

## STENOGRAPH RELEASES CASE CATALYST VERSION 19

Stenograph L.L.C. has announced the release of the latest version of its Case CATalyst software used in the court reporting and captioning industry around the world. "For the 15th consecutive year, CATalyst users are receiving meaningful new features and enhancements to their software," said James Kuta, Stenograph Senior Product Manager. "Stenograph is dedicated to providing the highest quality software for court reporters, captioners, CART providers and scopists. The positive feedback we've received from the Version 19 beta group and limited release users has been tremendous."

### Case CATalyst Version 19 highlights:

See Brief It suggestions phonetically: Users may find it more natural to think about steno phonetically. In CATalyst Version 19, Brief It gives them the option of seeing briefs phonetically.

A brief that Brief It might provide for the phrase "large imbalances" is /HRARPBLG. If thinking about the steno phonetically is preferred, users can have Brief It display /LARJ instead.

Expedite rough drafts with Oops categories: The Oops Categories feature of CATalyst Version 19 will make expediting rough drafts easier. The Oops feature and Hotspots window are already great timesaving tools for initial transcript editing, but now users can categorize Oops items by name and color, making it easier for them to quickly find what they're looking for when checking spelling, checking audio, or whichever category they choose.

Quickly see the Cloud Backup status of a file: It's now easier to know when Cloud Backup has safely stored files to the cloud. A green dot will appear in Manage Jobs to indicate when a file/sub file is backed up. If the file has changed and is waiting to be backed up, a yellow dot will appear.

Hear each word and phrase spoken in Dictionary Builder: Users can now build their dictionaries in the most natural way by hearing the words and phrases and then writing them phonetically. In CATalyst Version 19, Dictionary Builder will speak the words from Case Prep's Dictionary Builder list or any ASCII list.



## Brilliant Perseverance

By Rob Jones

I believe that people should continuously challenge themselves to become better in some way. I believe that people should make sacrifices for the causes that they hold dear. I am a retired Marine Sergeant. In 2010, I stepped on a land mine in Afghanistan, which resulted in double above the knee amputations of my legs. Since then, I have won a bronze medal in the Paralympics, and rode my bicycle 5,200 miles across America raising money for wounded veteran charities. I believe in setting an example for others to follow. In fall of 2017 I proved to America's veterans that they are appreciated, and that they are not alone in their struggles by running a marathon a day for 31 days straight, in 31 different major cities. This is your opportunity to give back to those that have sacrificed for America. Join me.

"I can't." This is an expression that is vilified in our minds beginning at a young age. Every time a young child announces this decision they are corrected. The first adult that hears it asks them whether or not they have even tried. Generally, this confrontation will result in the child giving their task another attempt, until their attention span moves on to something else. The adult will see this, and chuckle to themselves with the knowledge that this is just a child who has yet to learn the art and virtue of perseverance. By the time this child comes of age, however, they will have been told by adults more times than they can count that there is no such thing as "can't."

It is interesting, then, to think about how many adults seem to proclaim this expression in their lives. Is it because, like many things that adults tell children, they are simply telling the child a general rule that children must follow, but can be broken once one is grown? Or is it because these adults are simply repeating what they were told as children without thoroughly examining what the phrase, "I can't," truly suggests?

If you confronted an adult that claims they can't do something with the same question about whether or not they have tried, the answer will almost always be yes. Adults have learned enough to know that it is unreasonable to say they can't until they have at least tried once. Therefore, the real question that we should be asking in response is, "have you tried EVERYTHING?" Have you exhausted every possible option, scenario, combination, tool, and approach? I do not simply refer to the ones that you knew of at the time you decided to undertake your task. I mean, have you also researched possibilities that you hadn't known about? Have you determined whether or not there is another person out there that has performed the exact same task you are attempting, or at least something similar? Have you exhausted this research? Have you read every book, blog, journal, magazine, bathroom stall, and website? If the

answer to any one of these questions is "no," then go back and try again. Because you don't truly know if you can do something until you have tried absolutely everything.

The fact of the matter is, that rarely, if ever, is the answer to all of these questions "yes." Therefore, what is it that people actually mean when they say, "I can't?" A more accurate, but more verbose, way of saying it would be, "I don't care about or want enough this task or the resultant benefits of it in order to do all that is necessary to achieve it." I was told a countless number of times by people during my Month of Marathons that they couldn't run one marathon, let alone 31 straight. Every now and then, when I had time, I would discuss what they said. We would jointly conclude that if something they cared about depended on them doing so, it would be possible. The most common example I used was, "if someone had a gun to your child's head, do you think you could do it then?" Therefore, the phrase, "I can't," denotes a lack of investment as opposed to a lack of potential or ability. I do not mean to say that every person I had this conversation with should have had the motivation to run marathons. It was something that I had decided to do, not them. I merely wanted to express to them what I am expressing here: given the right purpose, and enough time, you can.

What happens if someone has said they can't, we have asked them if they've done everything, and the rare case happens, and they honestly say, "Yes?" Do we then concede that they can't? Nope. If everything in existence has been attempted enough to determine that it won't work, then congratulations, you have been awarded the honor of being the person who must invent the method. Or the tool. Or determine the right combination. Whether or not you will, once again, boils down to how much you care, and time. It may end up being that a person ends up trying for their entire life. But, I suggest removing the phrase, "I can't," from your lexicon and replacing it with, "I can't YET." Do this, so that you don't risk being on your death bed saying, "I didn't."

To learn more about Rob Jones and join him on his journey, please visit [www.robjonesjourney.com](http://www.robjonesjourney.com).





# MEMBERSHIP APPLICATION

## Florida Court Reporters Association

\*Name (Please print) \_\_\_\_\_ NCRA # \_\_\_\_\_ NVRA # \_\_\_\_\_

\*Company \_\_\_\_\_  Owner  Co-owner  Manager

\*Mailing Address \_\_\_\_\_ Website: \_\_\_\_\_

\*City/State/Zip \_\_\_\_\_

\*Telephone: Home (\_\_\_\_) \_\_\_\_\_ Office (\_\_\_\_) \_\_\_\_\_ FAX (\_\_\_\_) \_\_\_\_\_

CHECK ONE:  OK to publish home phone number in directory.  DO NOT publish home phone number.

\*Email address \_\_\_\_\_ Secondary Email Address \_\_\_\_\_

\*METHOD OF REPORTING:  Stenographic  Voicewriter  Gregg  Pittman  Other \_\_\_\_\_

\*TYPE OF REPORTER:  Freelance  Official  Deputy Official  Federal  Teacher  Student  Other \_\_\_\_\_

\*DESIG:  CSR (List State(s) other than FL) \_\_\_\_\_  FAPR  FPR  RPR  RDR  CMRS  RMR  CLVS  CRI  CRR  CPE

\*Asterisk indicates required information.

I make application for Membership as a: (CHECK ONE)

**PARTICIPATING MEMBER** .....\$300.00  
Open to anyone engaged in active practice of official or general court reporting by either stenographic or voicewriter method. (Please indicate method above.) **PAYMENT PLAN AVAILABLE**  
 \*Pre-Authorized Payment Plan Attached (Participating Members Only)

**STUDENT MEMBER** .....\$35.00  
Open to any student of shorthand reporting who is endorsed by a court reporting training program instructor or director.

**RETIRED MEMBER** .....\$45.00  
Open to any participating member in good standing who has retired from the active practice of shorthand reporting.

**ASSOCIATE MEMBER** ..... \$90.00  
**This category is open to the following (please check one):**  
 Teachers of shorthand reporting  
 Individuals officially connected with a school or college conducting shorthand reporting course - **School Name & Location** \_\_\_\_\_  
 Non-member individuals retired from active shorthand reporting  
 Non-reporters professionally associated with or employed by a member of FCRA whose application is endorsed by a participating member in good standing (**please print sponsoring member's name below where requested**)  
 Anyone qualifying for Participating membership, but residing outside of Florida - State of Residence \_\_\_\_\_

**VENDOR MEMBER** .....\$500.00  
Open to any firm or corporation engaged in selling products or services to FCRA members.

**PRO BONO:** Are you interested in donating time to the Pro Bono Program?  
 Yes  No

**FLORIDA MANUAL:** The guide to court reporting in Florida — sample forms, guidelines, and rules of court. Cost for members: \$75.00. Subscription to updates: \$25.00.

**MEMBERSHIP DIRECTORY:** Searchable geographical and alphabetical members' listing in Member's Only section of our website.

**The dues year is November 1 through October 31.** Annual dues must accompany application. Those joining in August, September, or October of a given year will be paid through October 31 of the following year. Dues payments are deductible by members as an ordinary and necessary business expense. In accordance with Section 6033(e) (2)(A) of the Internal Revenue Code, as amended, members of the FCRA are hereby notified that an estimated 10% of your FCRA dues will be allocated to lobbying and political activities, and therefore is not deductible as a business expense.

### For Administrative Use Only

Date Rec'd \_\_\_\_\_ Ref # \_\_\_\_\_ Amount \_\_\_\_\_  
Date Approved \_\_\_\_\_ Computer \_\_\_\_\_

I hereby make application for membership in the Florida Court Reporters Association and pledge myself, if accepted, to abide by the requirements of the Bylaws and Code of Professional Responsibility of the Association as they are now and as they may be amended in the future.

I understand that all applications are subject to review and approval by FCRA. All applicants must be sponsored by an FCRA member in good standing per FCRA bylaws.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Sponsoring Member (Please print or type)

How did you hear about FCRA? Code: \_\_\_\_\_ Other: \_\_\_\_\_

### PAYMENT ENCLOSED FOR:

**TOTAL ENCLOSED:** \$ \_\_\_\_\_

Check # \_\_\_\_\_  MasterCard  VISA  AmEx

Account # \_\_\_\_\_

Exp. Date: \_\_\_\_\_

CVV: \_\_\_\_\_

Amount to charge: \$ \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Billing Address:  Same as above

Address: \_\_\_\_\_

City/St/Zip: \_\_\_\_\_

**\*Participating Members selecting the pre-authorized payment plan option will need to sign and complete the payment section of the pre-authorized payment plan form.**





# Pre-Authorized Payment Plan Form

## Participating Membership Only

Please complete and return payment plan form and membership application to:

FCRA Headquarters  
222 S. Westmonte Dr, Suite 101  
Altamonte Springs, FL 32714  
Fax: 407-774-6440

The FCRA payment plan is available only through submission of this form and is not available online.

**INSTALLMENTS:** Plan is payable by credit card only. Check payments will not be accepted.  
All payments will be automatically processed as outlined below.

First Payment	Processed upon receipt of this form	\$100.00
Second Payment	Processed 30 days after first payment	\$110.00
Third/Final Payment	Processed 60 days after first payment	\$110.00

Member Name: \_\_\_\_\_

Member Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Terms of the Agreement: I hereby authorize FCRA to process the fees for my participating membership in three credit card transactions. All transactions will be processed to the credit card provided on this form. The first payment in the amount of \$100.00 will be processed upon receipt. The second installment in the amount of \$110.00 will be automatically processed 30 days following the first payment. The third and final installment in the amount of \$110.00 will be automatically processed 60 days following the first payment. Check payments will not be accepted under this agreement. I understand there will be NO REFUNDS for any installment (partial payment) processed under this agreement. I also understand that FCRA membership will not be considered active until all three plan payments have been processed successfully. The full amount paid under this plan for my FCRA Participating membership dues will be \$320.00 which includes a \$20 administrative fee for processing multiple payments.

Please enroll me in the payment plan. I have included credit card information for all three installments below. I fully understand and agree to the Terms of the Agreement as stated above.

\_\_\_\_\_  
Signature

Payment Method:

Master Card  Visa  American Express

Submit by Email

Billing Address: *(If different from above)*

\_\_\_\_\_  
Account #: \_\_\_\_\_ Exp Date: \_\_\_\_\_

Print Form

\_\_\_\_\_  
Cardholder's Name / Signature