

THE DEPOSITION REPORTER

Deposition Reporters Association OF CALIFORNIA, INC.



APRIL
2010

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PRESIDENT'S MESSAGE

LISA MICHAELS, CSR



Many years ago, a sixth-grade class jumped on a big yellow school bus for a field trip to a LA County courthouse. As the energetic kids piled noisily into the closed courtroom, the teacher placed students in different positions. She asked one little girl to sit next to the court reporter. As the judge spoke to the class, the pig-tailed girl watched with fascination as the court reporter's delicate fingers flew, punched and floated on the steno keyboard. It was then that I knew what my future career would be. On some days I had brief thoughts of being a designer, a teacher, a coach, but I couldn't get court reporting out of my head. The machine and I, it was meant to be.

After 27 years of deposition reporting, I still love it. The stories we hear, the people we meet and the places we go are unique and priceless. Just get any three court reporters together, and no later than 20 minutes after their first hello, you'll soon hear, "Oh, you won't believe this. Did I tell you the time that ..."

This year, you have asked me to guide DRA and your board of directors while they go about their duties set forth in the DRA bylaws. In addition to offering educational opportunities, helping to maintain training facilities and promoting professional ethics, DRA was formed to promote the purpose and effectiveness of deposition reporting.

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DRA Bylaws Section 2 Specific Purposes:

(c) To promote and enhance the leadership and enlightenment of deposition reporters and of the public generally regarding the special competence, importance and value of deposition reporters and to promote certified shorthand reporting over alternative reporting methods.

(f) to encourage, establish and maintain high standards of professional education, competence and performance of deposition reporters.

Next week, as you swear in the witness, know that DRA is here. While you mark those exhibits, DRA is watching Sacramento for any new legislation that affects you and taking immediate action. As you are waiting for your job to confirm for tomorrow, DRA is talking to the California

Court Reporters Board about enforcing their ethics guidelines and also collecting important news to send to you in this newsletter.

Your membership and the membership of your peers gives us the confidence and the power to work for you so you can concentrate on working hard for your family. I truly look forward to this next year. I thank you for the opportunity to carry on the fantastic work of previous presidents and to keep California stenographic reporters educated, legislatively strong and the undisputed best choice for reporting the records of the future.



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DEPOSITION REPORTERS ASSOCIATION MISSION STATEMENT

DRA represents Certified Shorthand Reporters who report depositions and out-of-court proceedings in the State of California, who wish to promote a broader understanding of freelance reporting.

DRA strives to preserve and enhance the reporting profession, ensure its integrity, and maintain its high standards and impartiality wherever a verbatim record is required.

DRA is committed to ensuring that the shorthand reporting profession remains a viable and integral part of the legal system.

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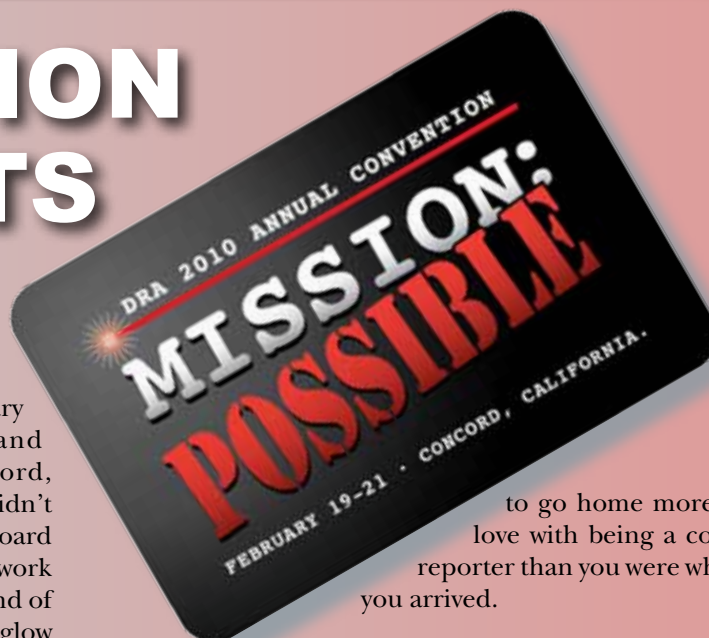
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CONVENTION HIGHLIGHTS

by Katherine Wayne

The morning of Thursday, February 18, 2010 dawned bright and sunny in the city of Concord, California. The 14th annual DRA convention didn't even start for another day and a half, but your board and convention committee were already hard at work getting everything in order for a long fun weekend of learning, networking, partying and basking in the glow of almost 200 smiling court reporters.

For those of you who have never helped on a convention committee, it is hard to describe the buzz in the air the night before the convention starts. All of the people who work on the committee, both from DRA and our host hotel, are excited about seeing the long months of planning come to fruition, about seeing the first few registrants show up to collect their convention packets, to see the decorations and the food that have been a picture in our heads for three or four months. But mostly, we know we will soon be bowled over by the collective energy of our members, and believe me, that takes some mental preparation! The convention is for you, from the first greeting at the



to go home more in love with being a court reporter than you were when you arrived.

We assign ourselves a tough job each February, but one that never gets boring, never gets tiring, never gets stale. Just ask Anne Torreano, who can't seem to help herself from volunteering to plan the convention. Just ask April Heveroh, who loves to plan fun little details that will give you a good laugh right when you need a break from learning so much. Just ask Vicki Squires, our wonderful executive director, who oversees every little detail from your name badge to the type of wine we have at our reception. Just ask any one of the hotels that has ever hosted one of our conventions. No one does all this work because they have to – they do it because YOU, our members, our colleagues, are WORTH it.

April and Anne, our convention committee, really covered themselves in glory this year. The speaker lineup was perhaps the strongest we've ever had, the nighttime activities were more fun than ever, and the number of continuing education points will never be surpassed unless we keep the seminars going until midnight.

With the theme of "Mission Possible," it was apparent from the first stages of the planning of this convention that the goal was to show our members how they could make their lives and



registration table to the last hug goodbye on Sunday afternoon. We want you to be happy, to be intellectually stimulated, to see old friends and make new ones, to be inspired to try some new technology, to stretch your court reporting muscles a little further, and

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Convention Highlights - cont'd from page 4

careers better. We're all busy with children, husbands, work, cleaning, cooking, getting the car repaired, trying to work out – all the things that consume our days. And the convention committee kept that in mind as they put together two and a half days of seminars to challenge you, entertain you, and encourage you.



New technology was of course front and center. Who has time to keep up with it all? But Patrice Curtis showed us how *Twitter*, *Facebook*, and *LinkedIn*, Internet networking sites, can be used by reporters and small firms to market themselves, for free! Word 2007, the latest Word version, is out and is getting rave reviews. Who wants to read the whole manual? Dana Cayce gave two seminars about the tricks and shortcuts of Word 2007, from the basic commands to the more advanced tools.

Kathy Kaplanek and Karen Hensche gave a wonderful seminar on the coolest gadgets for reporters, including everything from cell phone boosters for

your home to online services for file sharing. And to top it all off, a seminar on wireless realtime and one on webstreaming realtime, the futuristic technology that sounds a lot more intimidating than it is. This is court reporting's future, and reporters need a chance to learn about it in a nonthreatening, low-pressure environment. You might not think you'll ever do anything so high-tech, but unless you plan on retiring this year, you might be surprised. Even three years is a long time in the technology world, and these court reporting applications will become commonplace quicker than any of us can imagine today.

But, you say, what about the reporter who goes out every day and reports depositions and doesn't want to be bothered with new-fangled technology? Well, DRA had that reporter covered as well. There were two sessions of our always-popular Depo Dilemmas, where brilliant, dedicated, experienced reporters answer questions about every deposition situation under the sun (or under the fluorescent lights). A panel of long-time California reporters from each area of the state held a discussion on the slowdown in depositions and what the future may hold for our members. Mary Lynne Murray gave us helpful hints on how to run a home office efficiently to make our businesses more productive, and Seewung Yee showed us how to eliminate debt and plan for a better future.

For the legislative wonks among us, there was our legislative update, with the ever-fabulous Ed Howard,

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Convention Highlights - cont'd from page 5

Toni Pulone and Stephanie Grossman. Truly those three can make walking the halls of Sacramento sound like an exciting afternoon, and every now and then, someone in the audience who least expects it discovers they too are a legislative nut. Then, of course, there is the CCRJ exam, the true test of a reporter's realtime skills. Every year, more and more reporters get up early on Sunday morning in order to earn bragging rights with their friends, colleagues and clients.



But wait, there's more! Don't forget Esther Gokhale, a woman who has spent a large part of her adult life studying postures and movements around the world, who presented slides demonstrating why our backs hurt so much and what we can do about it. Then came former FBI Special Agent John Douglas, who gave us some of the inside scoop on the Jon-Benet Ramsey case, the Green River killer, and others. It was like seeing a television show come to life!

But maybe you would like more hands-on seminars. Maybe after hours of a technology seminar, you feel like something a little different. Well, don't worry, we've got that covered too. How does Sunday morning yoga sound? Stretch and relax your body before you stretch your mind. What about a few tips on self-defense? You never know when the attorneys might get out of line and need a little encouragement to behave! Maybe you could use some help on focusing your positive energy to visualize your goals and accomplish them. Yes, the DRA convention had all of that, too.



I know you're probably figuring there can't be ANYTHING else that you could get for one low, low price, but there is! There were sessions with your very own software vendors, finding out about new enhancements coming down the line, and having your own questions answered person to person. There were our wonderful, wonderful vendors, with all their wares right there to touch and play with and buy. There was the great food, wonderful company, and

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Convention Highlights - cont'd from page 6



out there in DRA-land and thinking to yourself, "If only they had done such-and-such," write to us, call us, send a carrier pigeon, fax us, use smoke signals. Tell us what YOU want, what interests you. Because the convention committee for next year is already hard at work, and they could always use your guidance. Or join the committee and be one of the people the night before the convention, getting ready for the tidal wave of laughing, talking, interesting people who are our members and our colleagues to show up for the best DRA weekend of the year.

the best movie night ever, with grown people showing up in pajamas to eat popcorn and movie candy, snuggle, and watch a silly movie. There was the incredibly hysterical song-and-dance group of April Heveroh, Toni Pulone and Rosalie Kramm, and the video that will go down in DRA and *YouTube* history. Yes, serious, talented reporters will wear go-go boots and shake their booties for your entertainment – for FREE! The president of our national association, Melanie Sonntag, attended the whole weekend and delighted everyone she met. And there is the one thing that no DRA convention would ever be complete without: Mary Bardellini as Master of Ceremonies and general all-around funny lady.

So is there something we've missed? Is there a reporter out there somewhere who can't find something here to enjoy? It's possible there is. If you are sitting



**For all of you who came
to celebrate our profession with us, it was
lovely to see you.**

**For those of you who missed it, our 15th
annual convention is at the Disneyland
Hotel, February 18-20, 2011.**

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Convention Highlights -
cont'd from page 7



Stephanie Grossman Receives 2010 Distinguished Service Award

As a founding member of DRA, Stephanie recognized that there was a critical need for a new state association to specifically support, protect and represent legislatively California deposition reporters, and she had the stubborn determination to see this association get on its feet. She was involved in virtually every aspect of that founding effort, from the arrangements for the first organizational meeting to the critical job of fundraising, from the interviewing and selection of our first lobbyist to the much smaller details, such as choosing the color of the paper for our first mailer.

Since those initial days, she has served in many roles, including becoming the first vice president of DRA. Most importantly perhaps, she has been the leader, both officially and unofficially at times, of our legislative committee, because even during those few years that she wasn't serving as our legislative chair, she acted as the advisor and political guru for every other legislative chair who's followed in her footsteps.

Her personal love for and involvement in politics has given her both insight and influential contacts that have proven very beneficial to DRA over the years. She has played a leading and supportive role in every single bill that DRA has ever sponsored, supported or opposed, and somehow she never tires of that drive to Sacramento



to walk the halls of the Capitol. She also has never tired of the fight against contracting and incentive gift-giving, despite the fact that those efforts have not always proved successful. She is always ready and even eager for one more battle, and she will never shy away from a legislative challenge. She's been our ethical watchdog and our head cheerleader and always will be.

Her years of service to DRA have all been distinguished, and so it's only right and fitting that she now be rewarded with our Distinguished Service Award, DRA's highest honor.

Congratulations and thank you,
Stephanie.



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HMMM...

ATTORNEY: Why do I have to pay for an expedited if you're sending it out anyway to opposing counsel, who IS paying for an expedite?

REPORTER: Hmmm. I asked FedEx if they'd deliver a couple packages for me for free, as they were leaving my building with other packages anyway and going to the same locations where some of their other packages were going anyway. Didn't quite work out like I thought it might.

2010 DRA Scholarship Recipients

by Valerie Eames

Congratulations to Olivia Ford, Michele "Mikki" Morse, and Jean Kim, the 2010 scholarship recipients, each of whom received a \$1,000 scholarship sponsored by DRA!

This year DRA received 13 scholarship applications from various court reporting students throughout the state of California. Each candidate must submit an application form, a personal statement as to why they believe they should receive a scholarship, two letters of recommendation, and their school transcripts. Winners are chosen based on three categories: one, merit, which includes an evaluation of the content of their personal statements or essays, as well as spelling, grammar, clarity and neatness of their applications and statements; two, financial need; and three, an oral interview conducted by members of the scholarship committee.

MEET OUR WINNERS:

OLIVIA FORD is a student at *Tri-Community Adult School* in Covina, California. She manages to hold down a full-time job, attend court reporting school, and take time to befriend and offer words of encouragement to her fellow students who may be struggling with a certain speed or by just giving that much-needed pep talk.

MIKKI MORSE is a student at *Sierra Valley College* in Fresno, California. She has experienced many personal trials in her life, and yet she manages to land on her feet with a personal goal of "paying it forward" by helping other students with their own personal trials.

JEAN KIM is a student at *Bryan College of Court Reporting* in Los Angeles, California. She works full-time while attending school, and is also a teacher's assistant for Bryan College's online court reporting program. She helps with proofreading and correcting transcripts. Jean took the February 19 CSR exam in Los Angeles and has

continued to attend school while awaiting the results, in order to maintain her speed skills. We have just learned that Jean passed her CSR exam! Congratulations, Jean!

Olivia Ford was able to attend DRA's 2010 Annual Convention luncheon, and it was a thrill to present her with her \$1,000 scholarship check in person. She also received an enlarged souvenir copy of the check, signed by each member of the Board of Directors!



John Squires presents Olivia Ford with her scholarship at the 2010 DRA Convention

It is a very rewarding experience being able to participate in the process of interviewing students with very diverse backgrounds and of all different ages. Each student possesses unique qualities of their own, but they all share the common goal of challenging themselves to work hard to qualify for the next CSR exam so they can become licensed professional court reporters and begin a career in the field they love. Choosing the winners was a difficult decision, as there were so many amazing candidates. DRA appreciates each one's efforts throughout this daunting process and we wish them all luck with their future careers. We will be fortunate to have them among us.



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Meet Your New Board

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WHO'S WHO?
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 2. Gail Blankenship
 3. Jeri Cain
 4. Charlotte Dunn
 5. Sheila Chase
 6. April Heveroh
 7. Robin Riviello
 8. Todd Olivas
 9. Lisa Michaels
 10. Susan Campana
- (Not Shown) Rebecca Cleaves

**E-mail your District Director
with any questions, concerns, comments or just to say hello!
They are ordinary working reporters just like you and would love
to get to know you.**



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Pink Ribbon Diamante® writer – a color with a cause!

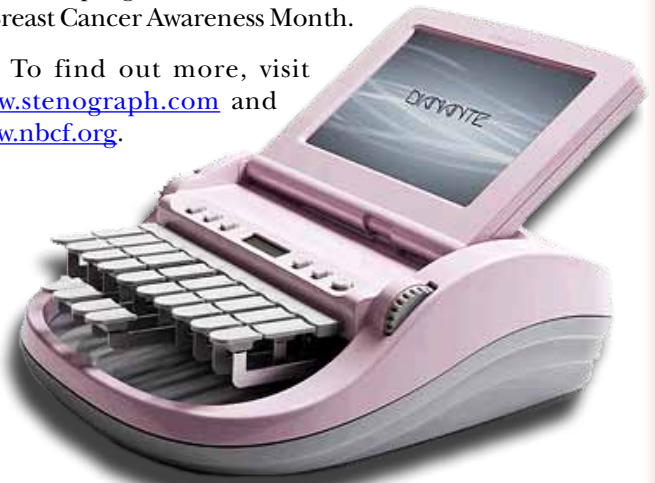
As a company that serves a clientele primarily of women and a company whose many employees have been directly or indirectly affected by breast cancer, research for a breast cancer cure is a cause that has been meaningful to all of us at *Stenograph* for a long time. The idea to tie this cause to the launch of the pink color choice was largely due to Vickie Main, Development Product Manager, who has been spearheading the company-wide breast cancer awareness campaign for years. The Pink Ribbon Diamante debut was at the NCRA Midyear Conference in San Francisco on March 12, 2010.

A portion of the purchase price of each Pink Ribbon Diamante will go to support the National Breast Cancer Foundation (NBCF) whose mission is to save lives by increasing awareness of breast cancer through education and by providing mammograms for those in need.

Buyers of the Pink Ribbon Diamante can show their support for those who are fighting in a special way. In addition to a guaranteed minimum gift from *Stenograph*, buyers can also donate up to \$50. *Stenograph* will match that \$50. This year will undoubtedly be an exceptional

year for donations from the *Stenograph* annual employee campaign and the culmination of the Pink Ribbon Diamante program in October, which is Breast Cancer Awareness Month.

To find out more, visit www.stenograph.com and www.nbcf.org.



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REPORTER RECOLLECTIONS

I was in Dillingham, Alaska (yes, Todd Palin's hometown) on a round of depositions, along with a videographer. The electricity went out – of course, in the summer you get extended daylight hours – so we waited a while for it to come back on in order for the videographer to be able to record. The attorneys finally got tired of waiting, and we continued the depo without the videographer because the court reporter – *moi* – was able to report without electricity. Of course, that was before laptops and realtime. But my battery was charged on my steno machine, so we were able to continue. If they had been using ER, they would have been out of luck.

Once the electricity did come on, there was more downtime because the power outage messed up the videographer's equipment somehow and she had to reboot everything!! That is just one of many stories. Oh, and yes, the mosquitoes ate us alive when we drove out to the site of the accident, an old dirt road, so the videographer could record it. We made a beeline to the first store we could find and doused ourselves in DEET!

Valerie Eames

Former Chief Justice Weighs In on Court Reporter Gift Ruling

Reprinted with permission from the *Daily Report*, Atlanta, Georgia.

Monday, March 22, 2010

Former chief justice weighs in on court reporter gift ruling

Urged by Norman Fletcher, state Supreme Court takes up challenge to limits on court reporters' gift giving

By Alyson M. Palmer, Staff Reporter

A below-the-radar dispute between a major Atlanta court reporting firm and the board that regulates court reporters has gotten the attention of the justices of the Supreme Court of Georgia.

The name on an amicus brief urging the justices to take up the case—one that didn't even merit a full opinion from the Court of Appeals—should have been familiar to the justices: former Chief Justice Norman S. Fletcher.

Fletcher, who retired in 2005, filed the brief on his own behalf, representing no client.

He told his former colleagues that a Fulton County judge's ruling in favor of the court reporting firm Brown & Gallo posed a greater threat to the judiciary's independence than judicial funding cuts, big spending by interest groups in judicial elections, or attempts by the state's consumer affairs office to investigate lawyers. He wrote that he could recall no certiorari petition as compelling as the appeal filed by the state of Georgia in the case.

"There's been a tendency to try to erode the power ... of the courts, the judicial branch," Fletcher said Thursday, "and I look at this as being a very dangerous step."

The ruling that's giving Fletcher heartburn comes in a lawsuit that Brown & Gallo filed to challenge a rule that limits gifts and incentives that court reporters can give lawyers. But his concern is about the larger issue of the judiciary's ability to regulate matters under its purview.

A Georgia statute gives the Judicial Council of Georgia jurisdiction to regulate court reporters. The Judicial Council, a 25-member body of judges from the state's appellate and trial courts, is supposed to develop policies for administering and improving the courts.

The law also creates a state Board of Court Reporting, whose members are appointed by the Judicial Council. The board has authority under the statute to create rules for court reporting firms, as well as the ability to assess a fine of up to \$5,000 for a violation of one of those rules.

In September 2008, the court reporting board began a grievance proceeding against Brown & Gallo to determine whether the court reporting firm had violated the board's rule on gifts. That rule forbids a certified court reporter from giving "any gift, incentive, reward or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$50.00 in the aggregate per recipient each year."

Brown & Gallo was created in 2007 by the merger of two of Atlanta's most-established court reporting companies. It operates under the name Esquire Deposition Solutions, since Alexander Gallo Holdings took over Esquire in 2008, but pleadings in the Fulton case still refer to the plaintiff as "Brown & Gallo." A company spokeswoman said the company doesn't comment on pending legal matters.

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Court Reporter Gift Ruling - cont'd from page 14

Represented by L. Lin Wood and other lawyers at the Atlanta office of Bryan Cave, Brown & Gallo acknowledges in court pleadings that during the summer of 2008 it conducted a promotion in which it offered a \$25 gas card for each deposition scheduled. Brown & Gallo also says the firm and its competitors occasionally have paid for clients' meals or entertainment and given clients branded items such as mugs, calendars and pens. Brown & Gallo insists in pleadings that it's not conceding that it has violated the gift rule.

But Brown & Gallo asserts in its Fulton County Superior Court lawsuit that the rule is vague, ambiguous, unreasonable, arbitrary, capricious, overbroad and exceeds the scope of the board's rule-making authority. The firm brought its lawsuit against the board and the Judicial Council under the state Administrative Procedure Act, asking Fulton Judge Jerry W. Baxter to declare the rule invalid.

Represented by the office of state Attorney General Thurbert E. Baker, the Judicial Council and the board moved to dismiss the case, arguing that the lawsuit was barred by the doctrine of sovereign immunity, that Brown & Gallo couldn't bring a lawsuit to interfere with a pending administrative proceeding, and that Brown & Gallo was simply wrong on the merits of its argument against the rule.

An inquiry made Friday with the staff of the board was referred to Billie Bolton, an Administrative Office of the Courts spokeswoman. She said the AOC couldn't comment on the case.

"We have ethical standards for court reporters," she added.

After an April 2009 hearing, Baxter issued an order in which he refused to dismiss the case, saying the action was properly brought under the Administrative Procedure Act, which waives sovereign immunity. The APA explicitly excludes "the judiciary" from its reach, but Baxter said that exclusion doesn't protect the Judicial Council or the board from challenges to the validity of their rules.

"While the Judicial Council is an 'agency of the judicial branch,' it is not the judiciary," Baxter wrote. He also said Brown & Gallo didn't have to show a likelihood of success on the merits of its argument about the rule just to get past a motion to dismiss.

The Judicial Council and court reporting board appealed to the state Court of Appeals, where a panel of Presiding Judge Edward H. Johnson and Judges Charles B. Mikell Jr. and John J. Ellington affirmed Baxter in a one-page, unpublished order that simply said Baxter's opinion offered adequate explanation and a further opinion would have no precedential value.

The state filed a petition for certiorari with the state Supreme Court, saying the case posed important sovereign immunity and separation of powers questions. Brown & Gallo argued in response to the state's cert petition that Baxter was correct on the law, emphasizing that until the trial court rules on the merits of its argument, it doesn't know what sort of marketing practices it can employ. It noted that it couldn't challenge the validity of the ethics rule within the confines of the board's proceeding against it.

This time, the Judicial Council was backed by Fletcher's amicus brief. He said that if Baxter's opinion were taken to its logical conclusion, it would invalidate the rules of a number of entities falling under the judicial branch—including the State Bar, the Board to Determine Fitness of Bar Applicants and the Judicial Qualifications Commission—because those rules weren't adopted in compliance with the procedures required by the Administrative Procedure Act.

Fletcher said Thursday he didn't have an answer for how the court reporting firm might properly challenge the gift rule. "They're going to have to get that advice from their attorney," he said. "But I know this is not the way."

Earlier this month, the court agreed to take up the case. Chief Justice Carol W. Hunstein and Presiding Justice George H. Carley, who are members of the Judicial Council, recused from that decision.

The case, *Judicial Council of Georgia v. Brown & Gallo*, No. S10G0359, is expected to be argued in May.



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Toni Pulone's
Depo Diplomat

Dear Depo Diplomat:

I just received an email today from a reporter in Minnesota – I don't know how she found me or my email address – who runs a website that archives depo transcripts where attorneys can search a database and then purchase and download any transcripts they're interested in. She claims that she's increased her income by selling copies of her old transcripts through her site and that I can do the same. She also says that it's okay to do this, because her website screens every attorney and gets the proper authorization from them before they can purchase a transcript. And she also states that if a lawyer has proper authorization, he can see any depo transcript he wants to, even if it's confidential.

Is what she says true, and is it okay for me to sell my transcripts to her site? I could certainly use the extra income.

Dear Reporter:

I understand how the thought of selling lots of copies of old transcripts is awfully appealing, especially in light of today's economy, but California law only allows us to sell or provide transcripts to nonparties by following the very specific procedure set out in Section 2025.570 of the Code of Civil Procedure (CCP). That Code section, for your reference, reads as follows:

2025.570. (a) Notwithstanding subdivision (b) of Section 2025.320, unless the court issues an order to the contrary, a copy of the transcript of the deposition testimony made by, or at the direction of, any party, or an audio or video recording of the deposition testimony, if still in the possession of the deposition officer, shall be made available by the deposition officer to any person requesting a copy, on payment of a reasonable charge set by the deposition officer.

(b) If a copy is requested from the deposition officer, the deposition officer shall mail a notice to all parties attending the deposition and to the deponent at the deponent's last known address advising them of all of the following:

- (1) The copy is being sought.
- (2) The name of the person requesting the copy.
- (3) The right to seek a protective order under Section 2025.420.

(c) If a protective order is not served on the deposition officer within 30 days of the mailing

of the notice, the deposition officer shall make the copy available to the person requesting the copy.

(d) This section shall apply only to recorded testimony taken at depositions occurring on or after January 1, 1998.

So given the above language, providing transcripts directly to this website, when there has been no request by anyone for a copy of a specific deposition, would not be appropriate. In order to comply with the above language, before releasing any transcript to this website for an anticipated sale to an attorney later, you would be required to notify in writing the deponent and all the parties attending the depo in question that this specific transcript had been requested by this Minnesota reporter or her website, and that is not, in fact, the case here.

And even if you were to think that you could very loosely consider this reporter's suggestion that you release your old transcripts to her website as a "request," which would certainly be stretching the truth at best, if you then notify the parties involved in many of the depositions that you have archived that you have now been asked to provide copies to a website that would database all this testimony, I could easily imagine that the attorneys involved would become rather concerned that you appear to be in the business of selling their depositions to anyone, and you could very well jeopardize your reputation and your clients' trust in you as a professional and perhaps your business relationship with them.

I can't speak to how this reporter or her website goes about "screening" attorneys or by what means they determine if an attorney has "proper authorization," but neither of those issues is relevant per California law. I don't know what, if any, requirements might exist in Minnesota law or in any other state on the subject of selling transcripts to non-parties, so I can't say whether their procedures are legal or appropriate elsewhere, but following the above procedure is what we must do as California CSRs and depo officers, and screening and authorization checks play no part in this procedure. I do have some question about her claim that with the proper authorization, an attorney can access any transcript, even one deemed confidential, and I would not rely on that statement.

By the way, this concept of establishing a transcript database online is not new. For many years, both the plaintiff

cont'd on page 17

Depo Diplomat - cont'd from page 16

and the defense bar have had websites where attorneys can search for expert witness and other testimony and download their transcripts, and other companies, especially legal support sites, have also gotten into this business of offering and selling transcripts online. I believe that the majority of these sites obtain their transcripts from their member or subscribing attorneys. I know at least one site that offers sort of a trade option, where an attorney earns the right to download a transcript at no charge for every archived depo that he provides to the site. Unfortunately, there is no prohibition in our California CCP to attorneys sharing depo transcripts, so they may do that, though we all wish that were not the case. Some of these websites have approached reporters in the past to obtain material for their archives, and after

contacting some California reporters, they've been advised that California CSRs are not allowed to provide random depo transcripts to nonparties in this fashion.

I sincerely hope that no California reporters have found this offer of potential transcript income so tempting that they've ignored the law that applies to us and put their licenses at risk by providing depo transcripts to this Minnesota website or any of the other websites in this business, and I'm very glad that you've come to DRA with this question before assuming it was safe for you to follow this reporter's suggestion.



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DEPO DIPLOMAT FEEDBACK . . .

"I want to thank you for all the wonderful suggestions and a shoulder to cry on. It's good to know reporters aren't alone with you helping them."

"Thanks a million for getting back to me on this. All this information is very helpful. I really appreciate you taking the time to help me with this."

"Thank you for your generosity, your knowledge, and taking time out of your holiday schedule to answer this question so that I can pass it along to our client. I'm awestruck by your detailed response."

"I appreciate DRA offering such a great resource. Sure makes researching these issues that come up stress-free."

"Thank you so much for such a prompt and knowledgeable reply. I really appreciate how you explained the answer in such depth. I am now enlightened. It is also reassuring to know that you will be there for any future questions."

"Toni, where have you been all my life? This is totally what I've been looking for. I knew there was newer, stronger language, but it was like trying to remember the name of your old junior high school boyfriend. Well, maybe not. Ya know what I mean. Thank you."

Deadbeat Judgments

As a service to our members, DRA will continue to publish in our newsletter and on our website any final, formal court judgments in connection with court reporting services, whether obtained against an attorney, law firm, court reporting firm, or any other person or entity. If you are aware of any judgments within the last two-year time period, fax or e-mail us the paperwork and we will publish it. Here is another one . . .

KAPLANEK COURT REPORTING

vs.

DALE L. GUSTIN, ESQ.

San Luis Obispo County, CA

Case No. SC098420

Judgment Date 1/28/2010

Judgment: **\$636.10** + court costs and interest



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West Valley's CR Program

UPDATE

The West Valley Academic Senate held its first hearing on the possible closure of the court reporting program on Tuesday, March 16. The Deposition Reporters Association very much appreciates the enormous support shown by all those who attended in response to our announcement. There was **STANDING ROOM ONLY!** Reporters, students, teaching staff and members of the community were there, many of whom came forward with public comment to express to the Academic Senate exactly how important the court reporting program is to the Bay Area and Northern CA by providing CSRs, captioners and CART providers for the community and what an enormous loss would be felt should this training program be abandoned. They were all eloquent, passionate and very persuasive in illustrating the need for the West Valley program to remain in place.

Representatives from DRA were present in force to speak at the first hearing in favor of the CR program. Here is what DRA past president Toni Pulone had to say:

I am here representing the Deposition Reporters Association of California. DRA represents more deposition reporters than any other organization in California and we are here to explain why it is critical that West Valley's Court Reporting program endure.

It is my organization that is responsible for the petition before you, signed by over 240 of our members and other concerned citizens, asking that West Valley's court reporting program remain open.

There are two main reasons why this college's court reporting program is critical to this community:

- First, in gauging which programs to cut and which to keep, it respectfully makes sense while in the middle of the worst economic downturn since the Depression to be guided by whether the program will provide immediate, good quality jobs to West Valley students. For decades, this school's court reporting program has provided excellent and rare employment opportunities, especially for your community's young women.

US News and World Report, in 12/09, concluded that court reporting was one of the 50 best careers of 2010.

The reason is because salaries for court reporters range from \$30,000 to \$100,000, and the jobs have long provided a livable wage for working mothers who cannot work traditional 9 to 5 hours.

And this profession is growing despite the downturn. The Bureau of Labor Statistics estimates a whopping 18-20% job growth in the field over the next 8-10 years, "faster than the average for all occupations between 2008 and 2018..."

As a licensed court reporter and firm owner, I can vouch for this: Ending this program will mean that young women who have jobs and incomes waiting for them right now will not get them.

That is a tragedy for them, to be sure. But it is also a tragedy for this institution, its mission, the women in your community, and, to some extent, the economy of the community West Valley serves.

In sum, if this college eliminates the program it will, by doing so, divert students away from an occupation that needs people to fill existing jobs right now, is well paying, growing, flexible, and which has long provided rare business opportunities for women.

- Second, elimination of the program, will mean higher costs for some of your sister colleges throughout the area. Your students provide captioning support for UC Berkeley, Stanford, San Jose State, San Francisco State, West Valley College, and other community colleges in the area. To help our hearing-impaired neighbors, these schools will have to import reporters from out of the area at greater cost.

The Deposition Reporters Association of California joins with public officials, judges, and students in asking that you not discontinue a program that will provide jobs to your students in an economic recession in a profession that is needed to serve the area's hearing impaired.

cont'd on page 19

West Valley's CR Program - cont'd from page 18

DRA legislative chair, Stephanie Grossman, spent time with the Academic Senator afterwards to answer her questions, as well as with Dave Fishbaugh, the main proponent of closing of the program, in an effort to understand his reasoning so that we can work together to find a common ground.

DRA past president John Squires had this to say:

I feel the hearing went well. I'm not a big fan of graphs and slides, more of a human experience fan. I do think the proceedings once again pointed out what a mystery profession we are to most people. I think a fundraiser would be a great idea. And I think it would be extremely helpful to have captioners there next week.

VICTORY!

West Valley's Court Reporting Program has been saved.
Thank you all for joining DRA in this effort.

At the March 23rd hearing of the West Valley Academic Senate, the Senate voted that the court reporting program should be continued, with qualifications to be determined at a later meeting. This hearing was a shorter follow-up session to the March 16th hearing, with less time allowed for both sides to make some final arguments and then more public comment to be given, followed by questions asked by the Senate members of faculty and administration.

It was in a smaller room at the college, but once again a very large crowd of reporters, students, teachers and other interested members of the community attended and filled the room to STANDING ROOM ONLY. Also, once

again all the public comment given was in support of the program, and many moving and persuasive experiences were related by CSRs, captioners, CART providers and students.

Clearly the Senate members were impressed, even amazed at the outpouring of the support shown for the court reporting program, and they recognized how valuable and necessary the training program was to the community at large. Even the administration's speaker, who had originally recommended the abandonment of the program and made the presentation in favor of that position, today said that had he been aware of the value that the program had to the community, he probably would not have made the recommendation to close the program.

The discussion by the Senate members included suggestions for improvement of the marketing of the program to the public, perhaps a rebranding of the program to focus on captioning and related employment opportunities that the program can offer to its students. Eventually a motion was made and seconded that the program be continued but that certain milestones be established for the program to achieve within some set time frame. When the vote was taken, all but one Senator voted in favor of this approach, and so the program was saved.

MANY THANKS TO THOSE OF YOU WHO ATTENDED THE HEARINGS AND/OR WROTE LETTERS OF SUPPORT. BY PRESENTING A UNITED FRONT, THE DEPOSITION REPORTERS ASSOCIATION WAS INSTRUMENTAL IN HELPING TO SAVE WEST VALLEY'S COURT REPORTING PROGRAM! CONGRATULATIONS TO ALL INVOLVED!



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DID YOU KNOW . . .

. . . that according to Government Code Section 68561, interpreters in a court setting must be certified?

The Court Reporters Board has received a request from a certified interpreter proposing some procedural changes in an effort to minimize violations of this code section, one of which is that prior to a deposition commencing, the court reporter must verify the photo ID of the interpreter (which must be issued by, and only by, the Judicial Council to be valid).

It is the consensus of the CRB that it is not necessary for CSRs to take responsibility for verifying the certification of interpreters who have been hired by another entity, but that if a CSR does the hiring or arranging of the interpreter, he or she must verify the interpreter's certification or risk disciplinary action by the CRB.

... and from West Valley

Dear DRA,

I want to thank you for all your help and support in our efforts to preserve our court reporting program at West Valley College.

When my colleague, Sue Coleman, and I heard Ed Howard say at the DRA convention in February that "We're going to save the West Valley College court reporting program," we were thrilled and honored with those words. And it happened! Ed, I want to thank you for all your actions on our behalf.

Thank you, Vicki, for the website postings and all your work at the convention in February, the special table, and the lifesaving petition sent to the college Academic Senate, the body that voted in our favor!

Thank you, John, for traveling to Saratoga to speak on our behalf. Your comments were important - and entertaining!

Toni, your prompt e-notes and announcements on the DRA website the day after the hearing were excellent. Thank you so much for taking the time that evening to write the message and for your important comments to the Senate. Your reminder to them of the financial benefits of the program got their attention.

Above all, I want to include Stephanie Grossman. You brought the most incredible energy, heart, and RESULTS to our cause. There is no adequate way to thank you for all you've done for us. As the process began, it was unimaginable that we would have had support from legislators, but you made it happen. Your messages to the Senate at the hearings were valuable, well-spoken, and even entertaining!

Thank you, Robin Riviello, District 2 director, for making special efforts to solicit letters of support and for speaking at our first hearing. Thank you, Anne Torreano, Karen Hensche, Kim Meierotto!

I don't think we would have been successful without the efforts and support of DRA.

Wishing you all the best.

Sincerely,
Linda Lawson, Court Reporting Instructor
West Valley College



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REPORTER RECOLLECTIONS

When my husband and I were in Scotland, we went to a trial in Edinburgh. They have a central recording system there. The witness had been warned not to mention a prior offense of the defendant, and of course, the witness goes ahead and mentions it anyway. The defense attorney made a motion for a mistrial, and the judge said he had missed the witness saying it. Of course, the prosecutor said she hadn't heard it either (it was perfectly clear to me sitting in the back row). So they had to adjourn for the DAY to go down to the basement and have someone find that spot on the tape and replay it. A court reporter could have accomplished this in 10 seconds, without wasting trial time or jury time. And what if the tape had malfunctioned in some way? The jury would have been tainted and there would have been no record of it.

My husband had to restrain me from standing up, identifying myself as a reporter, and repeating verbatim what the witness had said. International incident!

Katherine Wayne

Deposition Reporters Association Shines at NCRA Midyear Conference

NCRA's midyear conference was held at the Hyatt Regency Embarcadero March 11-13. Since DRA is now a full-fledged affiliate association, we were given a booth in the vendor hall, side by side with all the other vendors. DRA volunteers took full advantage of the opportunity to get some face time with our current members, sign up some new members, plug our annual convention next year at Disneyland, and have a lot of fun! The lucky winner of the raffle prize, a flip video, was Matt Spievak! The video footage from DRA's February convention was spooling in the background at our booth with catchy music, and people stopped by all day long each day in a steady stream. We are happy to report that we now have nine new professional members and two students, all of whom realized the benefit of belonging to this great association.

The NCRA board meeting took place Sunday afternoon at the close of the seminars and continued all day Monday. These board meetings are open to members and each of you should avail yourselves of the experience. Your new DRA president, Lisa Michaels, and three DRA past presidents attended both days on behalf of our members, in an effort to stay abreast of the issues being discussed and to represent you to the fullest extent possible. The meeting was extremely organized and professional, and it is evident how much time and consideration the NCRA board gives to each issue slated for discussion. They afforded the audience ample opportunity to provide any suggestions, comments or concerns and seemed very grateful that we took the time to attend and communicate with them.

There was discussion on the future direction in which NCRA should move, part of which revolved around the

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photo by Jason Meadors

NCRA Midyear Convention - cont'd from page 21

financial aspect. It was stated that if NCRA does not remain financially viable, it cannot represent any group's interests. They asked themselves should it become an umbrella association, welcoming alternate forms of capturing the record, or should it remain a leaner stenocentric association? If it remains stenocentric, should it become expert on all methods in order to, one, be able to provide its members with the knowledge to allow them to educate the consumers of our services as to our superior value, and two, to ensure that alternate methods are required to be held to the same standards as steno reporters, or would that damage its ability to represent stenographic reporters?

Alternate methods are definitely here; there is no denying it. Every day official steno reporters are being replaced with digital audio recording (DAR) and now, after being laid off, these reporters are seeking work in other arenas, such as depositions, CART and captioning. This affects all of us. In many states where voice-writing and DAR are used, those state associations felt they had no choice but to embrace all methods in order to keep human reporters in whatever jobs they can salvage.

There was discussion about whether it is better for NCRA to cross-train reporters on DAR so that when that

system is installed in their courtrooms, official reporters can remain in their jobs, albeit in a different capacity (either running the recording system or transcribing the tapes produced by the recording system) or whether it is better to spend that money endeavoring to get every reporter out there to the point where they are capable of and willing to provide realtime in order to showcase our superior value.

One thing is clear: There is no clear consensus by the NCRA board as to the idea of an umbrella association. There are many questions and no answers ... yet. In the meantime, the following motion was made and passed:

TO DIRECT STAFF TO DEVELOP FOR THE LEADERSHIP A PLAN FOR ENGAGING A MEMBERSHIPWIDE DIALOGUE ON ALTERNATIVE POTENTIAL FUTURES FOR THE VERBATIM STENOGRAPHIC PROFESSION.

When that invitation to have a dialogue comes, we had better all be present to give our input and vision for the best result. This will be our opportunity to decide how to save this profession on a national level.



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REPORTER RECOLLECTIONS

When I attended NCRA's Bootcamp in 2008, part of the program was a tour of the Capitol and the court reporting branch of the Senate. We watched the court reporters during the Senate Committee Hearings and saw how they each wrote for about 20 minutes before being replaced by another reporter. They had their machines in a harness in front of them so they could stand up and move around during the proceedings in order to be in the best position to hear exactly what was said. In this manner, they were able to get literally inches away from the speaker, I mean right in their faces. I thought that was so telling, that that's what it takes for someone to hear these people accurately.

As they were writing, their steno was being sent wirelessly to a scopist, who started transcribing immediately. On their breaks, the reporters would continue to edit their portion of the proceedings.

ALL testimony was finished before the end of the day and put into the official transcript of the proceedings.

I can't imagine the United States Senate EVER replacing live reporters, as they have to make a daily record of the Senate Proceedings. If E.R. is so wonderful, wouldn't the Senate eventually switch over to that?

I don't see it.....EVER!!!!

April Heveroh

DepoMap 2010

A new “green”
resource for depo
reporters
by Karen Klein, CSR

Ever wish you had a direct line to DRA's Depo Diplomat, Toni Pulone, to advise you in tough depo situations while you were in them? Ever second-guess what you did or said after a contentious depo? Ever find out how you **should have** handled a depo dilemma, instead of how you did handle it, after a depo occurred?

DepoMap 2010 makes your wishes a reality and ends the second-guessing and regrets, not to mention the many other things it does. As cutting-edge keepers of the record, deposition reporters need to put away the paper and incorporate DRA's DepoMap 2010 into their arsenal of everyday equipment.

DepoMap 2010 is a pdf file that you may download, copy, and install on as many computers (including iPhones, Droids and other Smartphones) that you personally use as a depo reporter. Your download may **not** be shared, of course, with other reporters, as every dollar spent on DepoMap 2010 goes to protecting the jobs of stenographic reporters in California. Double bang for your buck!!

DepoMap 2010 contains all relevant Code of Civil Procedure, Federal Rules of Civil Procedure, Business & Professions, Government Codes, Labor Codes and other sections that contain answers depo reporters need at their fingertips. The file is completely searchable, has a full index that is hyperlinked to the code sections, and has bookmarks listing shortened names for possible dilemmas that, when you click on them, take you to the code section that answers the dilemmas. For example, if there is a dispute about going off the record, click on the **“Go Off the Record”** bookmark and it will take you to CCP Section 2025.740. You will sound much more authoritative when you read the code section to counsel or even copy and paste it into an email so he or she can look at it later.

Agency owners and reporters with their own clients will find DepoMap 2010 an invaluable tool in the office to answer reporters' questions, address client complaints and questions, and deal with ethical dilemmas arising from opposing counsel challenging their office practices. It is so satisfying to be able to easily look up the code section, copy and paste it into an email, and send it to an attorney who has “dared” to question your decision-making and/or office policies. Not sure what the answer is? DepoMap 2010 is a great research tool that is tailored to answer the tough questions.

Attachments containing California's Minimum Transcript Format Standards, California's Standards of Professional Conduct, Best Practices for Use of Backup Audio Media, and legal opinions regarding audio recording by reporters of depositions and whether the reporter's recordings must be produced if requested can all be easily accessed, printed, and searched from within DepoMap 2010.

DRA developed DepoMap so that reporters and agency owners could get rid of the paper code booklets and be able to more quickly educate themselves and do the right thing in tough deposition situations. It will be updated as the codes change and new legal opinions and regulations are formulated. DRA members pay only \$35 for DepoMap2010. Nonmember cost is \$75. Find DepoMap 2010 at www.caldra.org.



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Dear Nancy . . .

Editor's Note . . .

Meet Nancy Varallo! Inducted as a Fellow into the Academy of Professional Reporters in 2001 and elected to the NCRA Board of Directors in 2009, Nancy started working as a freelance reporter in 1979. Her experience over the last 30 years includes running a large agency; developing a court reporting program and teaching students; and working as a CART provider for hard-of-hearing people.

Nancy has been kind enough to share her "Dear Nancy" column with us. Be sure to sign up on her website at DearNancy.com and submit your questions for future issues. This will keep the flow of information available to those of us who wish to use it for our own publication.



Dear Nancy:

I feel some of my competitors are guilty of unfair practices. I would like to blow the whistle but I fear legal repercussions. What should I do? Signed, It's Not Fair in Fairfield

Dear It's Not Fair in Fairfield:

I guess it depends on those practices. Witchcraft? Gun running to North Korea? I'm sure the authorities would be interested in the latter, while lots of folks on *MySpace* would be interested in the former.

We work in the legal system, and there's one thing we love to do within the legal system: sue. But keep in mind that slander and tortious interference charges can be thrown around like pizza dough. So unless you have photos of your competitors in flagrante delicto (don't you just love Latin?) or other evidence to document your allegations of wrongdoing, you have no whistle to blow. It'll be a he-said/she-said mudslinging free-for-all.

Let's put things in perspective. The way you conduct your business is more important than how other people conduct theirs. Yours are the only actions you can control; nobody else's. Often the only reward we have for playing by the rules is going to sleep each night with a clear conscience. Would you feel better about yourself if you succeeded in outing your competitors? You already possess something of great value they will never have: self-respect.

Response to It's Not Fair in Fairfield:

If sitting idly by makes you a sitting duck to a competitor's unethical practices, I would suggest action – but, yes, smart action that doesn't subject you to personal liability. Are your competitors misleading the general public with false claims or unscrupulous charges? Educate the public with your own marketing/educational materials, highlighting your business's strengths (certification of your reporters and what those certifications mean, the benefit of transcripts that are formatted in NCRA or state-mandated format, upfront and itemized billing, the true cost of incentive gifting to your client's bottom line, etc.). Be loud and proud, even if you don't name names.

Are your competitors engaging in practices that violate state, federal, or tax law? There are agencies that can investigate these actions, some confidentially. Gather your information, submit a complaint, and be persistent in your follow-up. Get involved in your state association and volunteer your time to your cause. It's unlikely that your problem is one that you are facing alone. With combined intellect, passion, and tenacity, you are more likely to solve the problems you face in your market.

Lisa Migliore Black



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Please consider printing this flyer and including it with your reporter paychecks.
We need everyone on board. You can also find this on DRA's home page at caldra.org.

If large corporations negotiate deals that drive down your page rates, and
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CALENDAR OF EVENTS

| | |
|----------------------------------|---|
| April 23-25, 2010..... | Stenograph CATALyst Training - Sunny Isles Beach, FL |
| May 21-22, 2010..... | Stenograph CATALyst Training - Mesa, AZ |
| May 22, 2010 | COCRA Convention - Marriott, 700 West Convention Way, Anaheim |
| | CCRR Exam - Anaheim Marriott, 700 West Convention Way, Anaheim |
| June 12, 2010 | DRA Board Meeting - Oakland |
| June 18-19, 2010..... | Stenograph CATALyst Training - New York, NY |
| June 25, 2010 | CSR Dictation Exam - Los Angeles |
| August 2-3, 2010..... | NCRA Board Meeting - Hilton, Chicago, IL |
| August 5-8, 2010..... | NCRA Annual Convention & Expo - Hilton, Chicago, IL |
| August 21, 2010..... | DRA Board Meeting - Los Angeles |
| August 27-28, 2010..... | Stenograph CATALyst Training - Seattle, WA |
| September 11, 2010..... | DRA Fall Seminar - Northern California |
| September 23-25, 2010 | STAR Annual Convention - Buena Vista Palace, Lake Buena Vista, Orlando, FL |
| September 24-25, 2010 | Stenograph CATALyst Training - Franklin, TN |
| September 25, 2010 | DRA Fall Seminar - Southern California |
| October 8-9, 2010 | Stenograph CATALyst Training - St. Louis, MO |
| October 16, 2010..... | DRA Board Meeting - Oakland |
| October 22-23, 2010 | Stenograph CATALyst Training - Dallas, TX |
| November 13-14, 2010 | NCRA Board Meeting - Ritz-Carlton, McLean, VA |
| January 22, 2011 | DRA Board Meeting - Los Angeles |
| February 6-8, 2011 | NCRA Firm Owners Executive Conference - JW Marriott Starr Pass Resort, Tucson, AZ |
| February 18, 2011 (tentative)... | DRA Board Meeting - Los Angeles |
| February 18-20, 2011 | DRA 15th Annual Convention - Disneyland, Anaheim |
| March 25-28, 2011 | NCRA Midyear Conference. - Marriott Waterfront, Baltimore, MD |
| July 28-31, 2011..... | NCRA Annual Convention & Exposition - Bally's, Las Vegas, NV |

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