

# The Deposition Reporter

DEPOSITION  
REPORTERS ASSOCIATION  
OF CALIFORNIA

July 2013

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association dedicated to the  
freelance deposition reporter



## PRESIDENT'S MESSAGE

Vicki Saber, *CSR, RPR, CRR,  
CCRR, CLR, DRA President*

**Morning fog.** It seems that's the perpetual weather forecast here at the beach where I live in So. Cal. Nearly every morning I wake up to a fog bank screaming lack of motivation. It would be so easy to succumb to daily drudgery by throwing the covers over my head and thinking maybe tomorrow I'll participate in my life and career. Tomorrow will be a better day to get things done. Tomorrow will be the day I finish that horrible 250-page depo of the cardiologist expert with the thick accent. Tomorrow I will volunteer for something meaningful. Tomorrow I will get involved. Today while I hunker down inside the comforts of my self-justification, I'm confident others will pick up the slack. What's one more day?

One more day. Tomorrow. Okay, one more tomorrow and I promise I will be seriously active. I will take charge. I will accomplish a

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RealtimeARMY

## CHOOSING A COURT REPORTER: THE ADVANCED COURSE

By Lisa Migliore Black and Natalie Domanico

(Originally Published in the Louisville Bar Brief June 2013. Edited for national distribution)

Stenographic court reporters are the most technologically advanced individuals in courtrooms and deposition suites across the country. While the sales pitch offered by digital recording and transcription companies tout their method as the "evolution" of court reporting, litigators and litigants should not be misled by unsubstantiated and overstated promises on price, quality and reliability. The fact is, electronic and digital audio recording can produce an adequate record, but these recording systems do not uniformly

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DRA\_Tweets



*All opinions expressed herein are strictly those of the authors or advertisers unless they are specifically identified as DRA policy.*

## PRESIDENT'S MESSAGE

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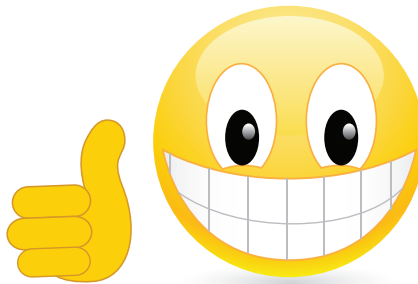
goal. At least tomorrow I will write that goal down so I can accomplish it the next day! Wait, that goal was written down three New Year's Days ago! Oh, complacency. How did I get here? More importantly, how do I escape? I really do want to be involved!

Baby steps. Compartmentalizing my personal life from my professional life. They both need attention and active participation to be successful. If I don't read the paper, participate in activities, make doctor appointments, am I the best I can be? If I don't participate in my profession by reading trade journals and newsletters, attending seminars and conventions, am I the best reporter I can be? We all know how great it feels when a task is completed or a goal has been accomplished. Your DRA may not be able to help you with your grocery shopping or closet cleaning, but we are 100 percent there for you to accomplish your professional objectives. And all you have to do sometimes is show up. Our upcoming seminar on September 28th can even serve double-duty as a professional as well as a personal achievement. "[The Business of Reporting](#)" is being held in beautiful Napa Valley at the Embassy Suites in the heart of wine country. This seminar has a uniquely original format that will engage, educate and excite you like no other seminar you've attended, and at the same time nourish and rejuvenate your personal well-being. It's impossible to be in Napa Valley and not toast to life! So join your fellow reporters there and experience the camaraderie.

Come to a board meeting. That may not sound as exciting as Napa, but they truly are fun (DRA's second name) as well as educational and informative. They are held on specific Saturdays alternately in Southern and Northern California for your convenience. When asked by your colleagues why they should join DRA, you will be armed firsthand with answers. It will be that much easier to achieve your [Get 3 – Go Free](#) (to the 2014 or 2015 convention) goal.

Join a DRA committee. Or create one. Do you have an idea of something you would like to see DRA more involved in? Bring it to our attention. Get some colleagues to participate in it. Make it happen! We are always open to – in fact, we highly encourage – member participation.

Morning fog followed by sun. That's the true forecast. I for one don't want to be in bed and miss out when the sun shines. Do you?



## SMILES 4 DRA

*On our play-by-play Sacramento posts  
while defeating a DAR/ER bill:*

Thank you for the updates during the hearing - that was great to follow!!

*Pam Cotten*

Great job today. Thanks for all your hard work.

*Antonia Rodriguez Sueoka*

Thanks again DRA for all of your hard work.

*Kellie Zollars*

What an awesome victory, no doubt, because of all the hard work of the dedicated volunteers of DRA and its membership.

*Lisa Migliore Black*



# AskDRA

Dear AskDRA:

My depo was suspended today and will have a Volume II scheduled. At the end, when I was expecting a stipulation, the attorney instead said he did not want the depo transcribed since it was suspended and not completed. This threw me to the point that I had to confirm what he said. Opposing counsel said she believed the California CCP was clear that depositions were to be transcribed unless all parties stipulated not to transcribe. The noticing attorney still said he believed it was his right not to have it transcribed, and we went off the record.

I cited the CCP Code section to him afterwards from my [DepoMap](#), and he still insisted that it was his right for it not to be transcribed. The other attorney and I just looked at each other and shrugged.

I believe it is still my duty to transcribe it by our law and have to wait until someone tells me to send it, or does it just go by Code? What are your thoughts on this?

Dear Reporter:

First, I'll include here the relevant section from the California Code of Civil Procedure.

*2025.510.*

*(a) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed.*

*(b) The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party.*

You are absolutely correct that 2025.510(a) clearly instructs that every deposition recorded stenographically is to be transcribed, unless all parties agree otherwise, so you were very smart to cite that CCP section to the attorneys at your depo. In fact, good for you to have a copy of DRA's [DepoMap](#) and refer to it in response to the attorneys having this discussion regarding the requirement to transcribe the deposition. And yes, you're also right that it is your duty to prepare the transcript, assuming the other attorney involved still has not agreed that it not be transcribed.

Now, though, comes the practical consideration here, and that is in ensuring that you, or the agency you were working for here, will be paid by the noticing attorney for the transcription of this deposition. It seems clear that either this attorney is not familiar with the above California law that applies and was cited or just doesn't want to pay for this transcript, as he's required by 2025.510 (b) to do, or perhaps both. In either event, my guess is that if you prepare this transcript, as the CCP clearly instructs, you or your agency will not see payment for that product, and the noticing attorney may object, claiming that he asked you not to prepare the transcript, or he just may simply not pay the bill without making any such claim and think that he's within his rights not to pay you since he made it clear he didn't want the transcript done, and he may continue to ignore the CCP section here that you pointed out as requiring that the transcript be done.

So I might suggest that you or your agency notify the noticing attorney in writing, much like you did verbally at the depo, that while he asked that the depo not be transcribed and expressed that he believed it was his right to do so,

that in fact the Code of Civil Procedure requires that the transcript be prepared under the circumstances, and include the citation to the 2025.510(a) and (b) language. You or your agency always have the right to require payment in advance of providing a transcript, so you/they could provide him with the cost involved and advise him that you would ask for this payment prior to beginning the transcription and probably state a date by which you expect payment in whatever form, so as not to leave this open-ended.

I'd copy the attorney on the other side, so she knows what's happening and realizes that her copy may be delayed by the other attorney's possible non-payment. Then if he fails to pay you or your agency, she may choose to contact him to insist on payment being made so that she can receive her copy of the depo. I don't know that this will necessarily cause him to take care of this as he should, but I just suspect that unless you receive payment in advance from him, you may never receive it, given what he said at the depo, despite your citation of the appropriate Code section, and his determination to ignore the Code's instruction.

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## TEXT IN THE CITY

### Chairs from Hell

My back was killing me. It was day two of a particularly contentious deposition, and as Murphy's Law would dictate, I was situated in a horribly uncomfortable chair. It was one of those inordinately cushy jobs with an elongated seat that left no hope of back support unless I allowed my feet dangle helplessly off the edge of the chair a la Edith Ann. Of course, counsel and the deponent were all perfectly content, never stopping to think for a moment that I had spent the past 16 of my waking hours with my hands propped up directly in front of me, struggling to keep up with the witness's fast-paced, mumbling, technical jargon, all the while fighting the good fight to ignore the searing bout of pain that had all but seized my lower back. Being a healthy, active 30-year-old woman, there was no acceptable reason that I should ever be in this much discomfort. But I was, and it was all because of my chair from hell.



Office furniture, while perhaps not the most entertaining of topics, was one that entered the arena of discussion all too often at CR gatherings. My reporting comrades and I had spent many an hour dissecting the minutiae of particularly

vexatious chairs, creating a veritable laundry list of their shortcomings. Too soft, too hard, broken, squeaky, or dirty – there were a million reasons that a chair could be identified as torturous, and a much smaller list of reasons to absolve it of this particularly heinous label. Yes, these hateful contraptions were everywhere, and there was no getting around it. As ubiquitous as the chair from hell had proved to be over my relatively short two-year career, its presence in a ritzy law office always managed to surprise and upset me somehow, almost like walking into a leftover cloud of bad cologne.

And there I was again, in the all-too-familiar scenario that left my back screaming for relief. As I squirmed around in my seat, searching in vain for a more comfortable position, a reassuring and humorous thought flickered through my mind. At any given time, there were scores of court reporters spread all over the city, the state, and the country who were writhing helplessly in these impossible chairs, fervently anticipating the utterance of the most beautiful and eloquent words to ever leave a deposing attorney's lips: "I have no more questions." How fantastic would it be to compile a photographic database of these chairs for posterity, bringing some levity to an otherwise somber career? Some commiseration from my fellow reporters would be a welcome reward for the misery my back had underwent throughout my two-day stint in this medieval torture device.

Mercifully, deposition testimony came to a close by 4:00, and I waited anxiously for all parties to file out of the room in order to obtain photographic evidence of the abhorrent chair. As I found myself alone in the conference room, I walked carefully around the object in question, observing it from every angle. It was now vitally important that my

*- continued on page 15*



### NEW MEMBERS:

*Alford, Julie*  
*Antos, Cheryl*  
*Breitler, Ann*  
*Browning, Lindsey*  
*Dol, Lorri*  
*Elias, Laura*  
*Farwell, Sally*  
*Flores, Helena*  
*Forbes, Dana*  
*Givens, Raquel*  
*Harr, Bobbie Jo*  
*Heslington, Candice*  
*Hunter, Reyes*  
*Jauregui, Patricia*  
*Lawrence, Robyn*  
*Montgomery, Shayna*  
*Osler, Evan*  
*Powell, Amanda*  
*Robinson, Rose-Marie*  
*Rutledge, Erika*  
*Sanchez, Marie*  
*Stewart, Cristina*  
*Stride, Katherine*  
*Tipper, Amanda*



## POP QUIZ: DIANA SASSEEN, CSR, DISTRICT 3 DRA BOARD REPRESENTATIVE



**What's your favorite word?**

*Cacophony - I just like the way it sounds.*

**What's your least favorite word?**

*Radiculopathy - just too many strokes. Yeah, I know, I'll work on a brief tomorrow.*

**What is your favorite cuss word (in steno)?**

*I don't cuss.*

**If you weren't a court reporter, what would you be?**

*Nurse, physical therapist, something in the medical field. Or perhaps a coroner. I find that job absolutely fascinating.*

**Beer or wine?**

*Wine. Cabernet, to be exact.*

**If they made a movie about your life, what actor/actress would play you and why?**

*I would have to play myself. No one else would do me justice. And I've already got my Academy Award speech written; just waiting for "the call."*

**What's your Starbucks order?**

*A good cup of Folgers out on my deck in the morning, and I'm happy.*

**What secret talent do you have that you're willing to share?**

*I can name almost any old Motown song by the first three notes.*



## THE BUSINESS OF REPORTING



**Embassy Suites  
Napa, California**

**Saturday,  
September 28, 2013**

**9:00 to 5:00 p.m.**

**.7 CE (pending)**

## Join DRA in Napa



**September 28 for "The Business of Reporting"**

Reporting school taught you how to be the best writer you could be but little, if anything, about the business of reporting. Whether you operate strictly as a freelance reporter or are a "single shingle" with a handful of your own clients, you are a business owner. The Deposition Reporters Association of California is bringing together the knowledge, tools, and resources you need to work smarter and maximize your earning potential. From how to effectively network and market yourself, to incorporating, bookkeeping, collections, equipment, taxes, insurance and more, awaken your inner business savvy with [The Business of Reporting](#).

## STENOGRAPH UNVEILS THREE NEW COLORS FOR THE DIAMANTE® WRITER

Elmhurst, IL June 25, 2013 — Stenograph, the world's leading manufacturer and marketer of shorthand machines and computer-aided transcription software, today announced three new color options for its top-selling Diamante – Blue My Mind, Black to Basics and Totally Red-ical. These stylish colors, along with Lunar White, now make up the writing machine's color choices. The Blue Ice and Platinum Gray Diamante writers will still be available while supplies last.



“Already on the market for the past four years, the Diamante has proven to be one of the most dependable writing machines Stenograph has ever produced,” states Judy Wolf, Stenograph’s Product Manager. “Time and time again we’ve heard users of the Diamante experience cleaner writing, higher productivity, and decreased errors and less fatigue at the end of the day.”

With the addition of these new colors, court reporters and captioners now have the opportunity to add a bit of flair and personal style to their writing machines. Current Diamante owners who would like to modify the top shell and lid of their writing machine to one of the new colors have the option of doing so as well.

Stenograph is dedicated to supporting the court reporting community and its programs. The company is the number one manufacturer and marketer of shorthand writers and computer-aided transcription software, offers online education and provides other industry-related supplies. It also owns Prince Institute, which has two ground locations and an online program. For more information please contact Stenograph at 1.800.323.4247 or visit them online at [www.stenograph.com](http://www.stenograph.com).



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Janette Vine  
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How do you find reporters to join?

- Go through your Facebook friends. How many of your reporter friends are not members?
- Ever meet other reporters on the job? Ask them if they belong to DRA.
- Think of all the reporters you know. Do you know three who aren't DRA members?

**3 = FREE**



## DRA CONGRATULATES GOVERNOR BROWN ON HIS APPOINTMENTS TO THE CALIFORNIA COURT REPORTERS BOARD



Earlier this month [Governor Jerry Brown announced](#) that he was appointing Rosalie Kramm and reappointing Toni O'Neill to the [California Court Reporters Board](#).

"The Governor is to be congratulated on naming such outstanding professionals to this important licensing board," said Vicki Saber, DRA President. "The board is charged with safeguarding the excellence, integrity and impartiality of our profession to the benefit of consumers. Rosalie is a brilliant choice and will be a terrific leader, and Toni has already proven herself to be an outstanding Board Member and Chair."



Rosalie Kramm, CSR, RPR, CRR, CLR, has been reporting since 1981 and founded Kramm Court Reporting in 1985. Rosalie currently serves as President of the Society for the Technological Advancement of Reporting (STAR) and has been selected to be an ambassador for NCRA to Russia. She has served as President of the Deposition

Reporters Association of California (DRA) and as President of the General Reporters Association of San Diego. Rosalie is also a Certified LiveNote Trainer and a frequent presenter for advanced workshops on the use of interactive realtime software.



Toni O'Neill, CSR, RPR, Board Chair, was appointed by the Governor to the CRB as a licensee member in 2010, to a term expiring June 1, 2013. For the last 20 years, Ms. O'Neill has been employed by the Riverside Superior Court as an official court

reporter, and she currently holds the position of supervising court reporter. Ms. O'Neill is one of the first official court reporters in the state of California to provide realtime services for use by judges and attorneys during courtroom proceedings and has maintained an interest in the integration of court reporter technology into the judicial setting. Prior to 1990, Ms. O'Neill worked as a freelance court reporter, which included being an owner/partner of a deposition agency for seven years in the Riverside area. O'Neill is a director of NCRA and a past president of CCRA.

It appears as though the Governor elected not to re-appoint Board Member Reagan Evans, CA-TX CSR, RMR, CRR, CCRR, CLR.

"Reagan has been a tireless, dedicated and effective Court Reporters Board Member and champion of fairness and of consumers," said DRA President Saber. "We at DRA are so grateful to her and will always value her friendship and service. We all owe her our gratitude."

Stay tuned as DRA reports on more news from your CRB!

## AskDRA

*- continued from page 4*

Keep in mind that had you been reporting for attorneys from another state on a case venued elsewhere, the noticing attorney in that case may indeed have been free to unilaterally make the decision on whether to transcribe the depo or not, since it may very well be that the laws of many other states do not have language like our CCP above that ensures the deposition transcript will always be required unless all the parties involved decide otherwise.

Antonia Pulone, CSR

DRA Depo Diplomat

## When you tell someone what you do for a living, what is the craziest comment you've ever heard?

"How can you stand listening to people talk for hours on end?"

"Are you really writing English on that little machine?" I said, "Nope, I translate everything into Swahili first and then write it down."

"Oh, you work in court? Can you help me with my traffic ticket?"

"So do you think OJ really did it?"

"What newspaper do you work for?"

"Did you go to school for that?"

"Oh, court reporting, huh? Do you do that with one hand or two?"

"Oh, you write on that funny little machine. Is that hard?"

"Oh, so you get to write about all the famous trials for the newspapers. Cool!"

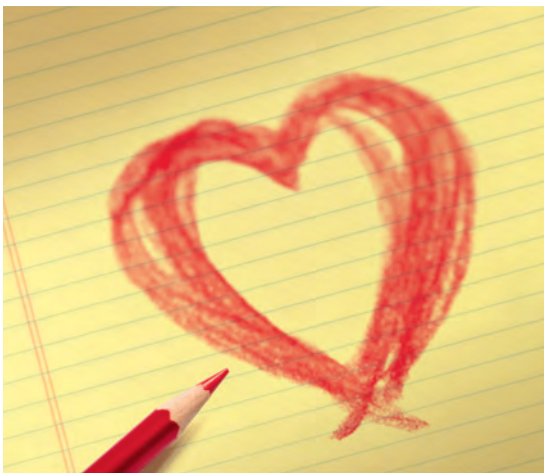
"How do I get off of jury duty?"

"I bet you hear all kinds of crazy s..t?"

"Can you get access to the files from an unsolved murder case from the '60s?"

I had someone ask if I was one of the guys that interviews people after Judge Judy makes her ruling. Really!

They always say, when I show them my notes, "How can you read that?" I say, "The same way I write it, only backwards."



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## DRA BILL WATCH



*by Antonia Pulone, Legislative Committee Chair*

The following bills are currently under consideration by the California Legislature and are being watched by your DRA lobbyist, Ed Howard, and your DRA Board of Directors. DRA carefully reviews and follows every bill introduced in Sacramento that could potentially have an impact on California CSRs, our profession or our livelihood.

A note of explanation, if you're not familiar with legislative terminology: AB stands for Assembly Bill, meaning the bill was introduced by a member or a committee of the Assembly, and SB stands for Senate Bill, meaning it was introduced by a Senator or Senate committee. The name in parentheses which follows the bill number is that of the author, the legislator or the committee that introduced and is carrying the bill. The status of each bill below is current as of July 9, 2013.

The bills in this report are listed in numerical order, except for AB 365 (Mullin), which is our current DRA-sponsored bill, and is saved for last.

**SB 75** (Senate Budget and Fiscal Review Committee)  
Sponsor: Committee-sponsored

**Summary:** Increases the fee charged to the plaintiff in Small Claims Court cases for the clerk's mailing of the claim to the defendant(s). Will authorize the Administrative Office of the Courts to make loans to the Trial Court Trust Fund under certain circumstances. Will require that for every court proceeding lasting less than an hour, the \$30 fee charged for the services of an official reporter would be distributed to the court in which the fee was collected.

**Status:** Passed by both houses, signed by the Governor and chaptered by the Secretary of State. Effective June 27, 2013.

**AB 80** (Assembly Budget Committee)

**Sponsor:** Committee-sponsored

**Summary:** Would amend essentially the same code sections and generate the same changes as SB 75 above.

**Status:** Ordered to inactive file at the request of Senator Leno.

**AB 186** (Maienschein; Principal Coauthor: Hagman, plus 12 Coauthors)

**Sponsor:** Author-sponsored

**Summary:** As amended, would require any board within the Department of Consumer Affairs to issue a temporary license, under given conditions, to a person holding a current license in another jurisdiction who is married to, or in a domestic partnership with, an active-duty member of the Armed Forces who is stationed in California.

**Status:** Passed by the Assembly; now in the Senate. Referred to the Business, Professions & Economic Development Committee. Testimony taken; further hearing to be set.

**AB 251** (Wagner; 3 Coauthors)

**Sponsor:** Conference of California Bar Associations

**Summary:** Would allow courts to use ER equipment in family law cases if an official reporter or official reporter pro tempore is unavailable.

**Status:** Heard by the Assembly Judiciary Committee on 4/09; failed passage. No further action.

**AB 291** (Nestande)

**Sponsor:** Author-sponsored

**Summary:** Would abolish the Joint Sunset Review committee and establish the CA Sunset Review Commission within the Executive branch, consisting of 10 members, 8 appointed by the Governor, one each appointed by the Senate Committee on Rules and the Speaker of the Assembly. The director would be appointed by the commission members.

**Status:** Referred to the Assembly Accountability and Administrative Review Committee. Hearing date cancelled at the request of the author; no new hearing date set.

*- continued on next page*



**AB 376** (Donnelly)

**Sponsor:** Author-sponsored

**Summary:** Would require any state agency that passes a regulation after January of 2014 to notify any business that would be required to comply with the new regulation of the existence of the regulation 30 days before it becomes effective. The agency would also be required to cooperate with the Secretary of State in accessing business records to obtain the contact information necessary to provide the required notice.

**Status:** Referred to the Assembly Accountability & Administrative Review Committee. Hearing date postponed by committee; no new hearing date set.

**AB 566** (Wieckowski, with 11 Coauthors)

**Sponsors:** SEIU (Service Employees International Union) and AFSCME (American Federation of State, County & Municipal Employees)

**Summary:** Would establish specified standards if a trial court intends to enter into any new contract, or renew or extend an existing contract, for any services that are currently or customarily performed by trial court employees, or that were performed or customarily performed by trial court employees at the time the contract was originally entered into or previously renewed or extended.

**Status:** Passed by the Assembly; now in Senate. Passed by the Senate Judiciary Committee. Referred to the Senate Appropriations Committee.

**AB 648** (Jones-Sawyer)

**Sponsor:** Judicial Council of California

**Summary:** Would establish specific rules regarding the \$30 user fee to be charged by courts for any civil proceeding lasting one hour or less. Among other details, it would require that the fee be charged to the filing party, or parties if filing jointly, and be charged once per case for all proceedings conducted within the same hour, if the total time taken is one hour or less. Also, the fees are to be deposited into the Trial Court Trust Fund and be distributed back to the court where those fees were collected. This fee would be waived for anyone granted a fee waiver.

**Status:** Passed by the Assembly; now in Senate. Heard and passed by the Senate Judiciary Committee. Referred to the Senate Appropriations Committee.

**AB 655** (Quirk-Silva)

**Sponsor:** California Court Reporters Association

**Summary:** Would allow, but not require, trial courts to establish the Reporters' Salary Fund, as currently exists in L.A. County, from which the salaries and benefits of official reporters would be paid. The fund would be replenished each month to ensure a balance is maintained to provide for reporters' pay. No amount is currently specified as to the size of the fund, but it's expected that an amount will be amended into the bill before being heard by the Appropriations Committee.

**Status:** Passed by the Assembly; now in Senate. Heard and passed by the Senate Judiciary Committee. Re-referred to the Senate Appropriations Committee.

**AB 679** (Fox)

**Sponsor:** California Court Reporters Association

**Summary:** Would require that the Judicial Council adopt rules that any party arranging for a CSR as an official reporter pro tempore must notify all other parties of that fact and that attempts be made to share the costs of the reporter to assure better access to justice for all parties to a proceeding.

**Status:** Referred to the Assembly Judiciary Committee. No hearing date set yet.

**AB 788** (Wagner)

**Sponsor:** Conference of California Bar Associations

**Summary:** Would amend Section 69954 of the Government Code to allow for copies of non-computer-readable court transcripts, once purchased from the reporter, to be reproduced for internal use or in response to a request for discovery, court order, rule, statute or subpoena, without paying a further fee to the reporter.

**Status:** Passed by the Assembly; now in Senate. Referred to Senate Judiciary Committee. Assemblymember Wagner has agreed not to pursue the bill this year.

## **SB 823** (Committee on Business, Professions and Economic Development)

**Sponsor:** Committee-sponsored.

**Summary:** Would re-enact provisions regarding the administration of the Transcript Reimbursement Fund, operated by the Court Reporters Board within the Department of Consumer Affairs, that were repealed on Jan. 1, 2013, and would extend authorization for the TRF until Jan. 1, 2017.

**Status:** Passed by the Senate; now in the Assembly. Referred to the Assembly Appropriations Committee, suspense file.

## **AB 365** (Mullin)

**Sponsor:** Deposition Reporters Association of California

**Summary:** This bill adds a new section to the CCP that simply provides that official reporters and official reporters pro tempore shall be appointed as provided by Government Code Section 69942. In addition, the bill adds the clause “notwithstanding any other provision of law” to reinforce that the rule of CCP Section 273 applies in every circumstance namely that only transcripts made by licensed official court reporters and official reporters pro tempore can be considered as prima facie evidence of that testimony and the proceedings.

In other words, CCP Section 273 establishes that transcripts made by official reporters are those that qualify as prima facie evidence of not just what occurred at a proceeding, but evidence of the testimony and proceeding itself, and all other transcripts are not entitled to be recognized with that evidentiary status. This Section is intended to limit the evidentiary status of the work product of officials in that statute to those transcripts that are done by licensees of the Court Reporters Board, namely “official court reporters” and “official reporters pro tempore.”

However, the absence of a cross-referencing statute tying the Government Code definition of “official reporters” and “official pro tempore reporters” to this presumption in CCP Section 273 leaves an unwanted ambiguity in the interpretation of the statute, and this bill is intended simply to remove that ambiguity.

**Status:** Heard by Assembly Judiciary Committee on 4/09; passed. Read second time; ordered to third reading. Ordered to inactive file at the request of Assemblymember Mullin.

If you're interested in following the progress of these or any bills, go to [www.leginfo.ca.gov](http://www.leginfo.ca.gov), and click on “New Web Site for Accessing California Legislative Information,” then on “Bill Information,” and “Bill Search.” Search for the bill number you are interested in and click on “Track Bill” to provide your e-mail address. You'll then receive emails from the Legislative Counsel whenever there is any action on that bill. Also, a “Guide for Accessing California Legislative Information” can be found at [www.leginfo.ca.gov/guide.html](http://www.leginfo.ca.gov/guide.html), which contains a thorough glossary of legislative terms and a great deal of helpful material.



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## CHOOSING A COURT REPORTER: THE ADVANCED COURSE

*- continued from page 1*

produce an accurate record.

Transcripts from recordings can be riddled with inaudible statements, speakers can be incorrectly identified, recordings are easily lost or misplaced, and oftentimes, the equipment fails or the operators forget to turn it on, leading to entire proceedings not being recorded.

Today's stenographic reporters are digital in every aspect, capturing the instant voice-to-text record on several redundant hard drives and in a secure cloud server, along with a backup audio record. Digital reporting, or more accurately, digital recording, is merely transcription after the fact, and audio recording is hardly new or high-tech. When a transcript is needed, a single stenographic court reporter can immediately provide, with more efficiency, what it takes four or five digital transcriptionists to produce using a standard QWERTY keyboard.

### **The Unreliability of Recordings**

Attorneys practicing in Jefferson County, Kentucky courts in 2010 can painfully attest to the fact that digital audio recording equipment caused hundreds of hearings to be lost because the system failed to record any sound. The failures in Jefferson County that spanned at least a three-month period are not isolated occurrences. Headlines across the nation speak to the countless failures and shortcomings of these systems. While jurisdictions in New Mexico, New Jersey, Texas, among others, are returning to stenographic reporting in their courtrooms due to failures in their expensive audio recording systems, experienced litigators should be wary of the pitfalls associated with this emerging alternative entering their deposition suites.

### **Experience Matters: Hire a Certified Court Reporter**

Now that the practice of digital recording is making its way into deposition suites, attorneys and litigants should be forewarned that the only requirement for digital recorders working in the freelance market in the majority of states is a short few hours of training and filling out an application to obtain a notary public designation. No formalized education is required, and thus, digital recording personnel may have little to no experience in producing a written transcript. Knowledge, experience, reliability, technology and ethics distinguish stenographic reporters because of the extensive training needed to learn and master their craft. Stenographic reporters are required to attend a two- to four-year academic program that specializes in all aspects of capturing live proceedings and memorializing them accurately in writing with an additional focus on proper procedure and professional ethics. Additional on-the-job training and real world experience is provided to reporters after graduation.

Voluntary attainment of certification through state associations and the National Court Reporters Association (NCRA) give further assurances to consumers that they have hired a qualified court reporter. Certified court reporters are required to attend continuing education to update their knowledge and keep up with ever-changing technology. The designations of RPR, CRR, RMR and RDR have varying requirements that test a reporter's speed (at 225 wpm up to 260 wpm), accuracy and knowledge base through rigorous academic and performance testing.

### **A Court Reporter Controls the Proceedings**

Court reporters interrupt for a reason: to ensure an accurate, usable record.

Q. Is it true that stenographic reporters cannot record—

A. No. The truth is—

Q. —multiple speakers—

A. —that when more than one—

Q. —simultaneously?

A. —person is talking at the same time, it makes for a terrible record, no matter who prepares it. If the example above is lost in translation, a practical bit of advice for creating a record is that, if the highly-skilled stenographic reporter is having difficulty preserving the record, attorneys, paralegals, the judge and the jury will have difficulty absorbing it.

Did the witness say Kotex or cold checks? Thecal sac or fecal sac? Your bank fraud or medical malpractice case in the hands of an inexperienced digital reporter can be devastating. A thecal sac is a membrane surrounding the nerves in the spine. A fecal sac is literally a sack of...well, check out the definition of fecal.

### **Instant Access to the Written Record—Digital in Every Aspect**

Realtime technology is the equivalent to closed captioning in the legal environment. The proceedings can be streamed to your laptop, iPad, mobile device, iPhone, or sent to off-site locations through the World Wide Web—allowing for experts, legal support staff and co-counsel to participate remotely. Stenographic reporters, and voice writers (steno

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## TEXT IN THE CITY

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photograph captured the very essence of the ordeal I had suffered these past couple days. As I circled my prey, the perfect snapshot took form in my mind, and I quickly fished my smartphone from my pocket in order to memorialize the scene. Click, click, click. Perfect. Appeased, I congratulated myself on my amateur photography session and shoved my phone back into my pocket, only to sense a movement from the corner of my eye. Drat. I had been caught, and by my client, the senior partner, no less.

*"Taking a picture of our chair, Madam Reporter, huh?"*

*"Yes, Counsel."*

*"I can tell you where to purchase them, if you're interested."*

*I hesitated. Was honesty really the best policy here? What the heck. I took the plunge.*

*"Well, actually, Counsel, with all due respect, I was grabbing a quick picture of the chair because it was so uncomfortable. I wanted to show it to a reporter friend of mine."*

*"Well, I'll be. Never realized they were so uncomfortable for the court reporter. Sorry about that."*

I shot him a wry smile and sheepishly continued to pack away my equipment as I explained to him the numerous deficiencies of his conference room chairs. He appeared more amused than impressed with my passionate diatribe, but closed with a heartfelt apology and thanked me for my hard work. I climbed off my proverbial soapbox, wheeled my bag out to the parking garage, and headed home for the day.

As the weeks wore on, fodder for my new page rolled in, now a Facebook reality aptly named ["Chairs From Hell."](#) What I thought would be a laughable enterprise frequented by only a handful of my closest friends blossomed into a bona fide sensation, spawning hundreds of members in its first few weeks. Submissions ran the gamut from lawn chairs to wooden stools to a stuffed taxidermist's tiger, looming menacingly above a worn-out recliner in the lobby of a particularly seedy law office.



The page had taken on a life of its own. In the spirit of my new venture, I found myself searching longingly for the very chairs I had come to hate, simply to achieve the level of martyrdom that is only accompanied by a long deposition in a particularly hideous seat. Depo chairs became photo ops and backaches and sore wrists became battle scars. My page had turned convention on its head and we were all along for the ride.

Months later, I found myself assigned to a deposition in the very law office that had started it all. Resigning myself to the aches and pains that were to follow a full day of testimony in one of the firm's hated chairs, I popped a couple Advil on my way to work and packed my trusty Tempur-Pedic back pillow into my steno bag for good measure. But fate had something else in store for me. Lo and behold, at the head of their imposing conference room table was an entirely new chair. It was black with a mesh back, fully adjustable, and it looked positively divine. I set up my equipment nonchalantly and finally settled into my ride for the day: Herman Miller's piece-de-resistance, the coveted Aeron chair, worth a cool \$700 with shipping.

As my day progressed and my back reveled in its newfound comfort, I couldn't help but smile, suspecting that Mr. Senior Partner had been listening a little more intently to our conversation than I had given him credit for. My smartphone was in my pocket, but it could stay there for the day. I didn't need pictures of this. Forget chairs from hell today. I had just reached chair nirvana.

Cheryl Haab, CSR, RPR, CLR

DRA Board of Directors District 8 Representative

[district8@caldra.org](mailto:district8@caldra.org)

## CHOOSING A COURT REPORTER: THE ADVANCED COURSE

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mask reporters) are capable of providing this service; digital recorders/transcriptionists cannot. This is considered the gold standard of court reporting. Immediate rough drafts and daily copy transcripts can also be provided by your stenographic reporter.

While the premium services of realtime and immediate rough drafts often come at a higher price, the same quality and skill go into a transcript provided on an unexpedited basis at market competitive prices.

Consumers do not pay a higher fee if not utilizing a realtime feed, yet the same reporter with this impressive skill set will be assigned to cover your other cases, short or long in duration, wherever needed. NCRA and many state association websites provide court reporter directories online, allowing consumers to find a reporter in any venue throughout the world.

Your cases matter to you and, most importantly, they matter to your clients. Depositions and trials are not dress rehearsals, and digital recording comes with many risks. Witnesses may be unavailable for trial, deceased, or testimony may be changed if the original testimony is unavailable due to poor quality of recordings or recording failures. Stenographic reporters assure that the record is verifiable as it happens, not after the fact.

You get what you pay for. There is a saying that perfectly parallels this issue: "Cheap, fast, or good. Pick two." Accuracy, efficiency and quality are the most important things to consider when deciding to use a stenographic court reporter or an audio recording device for your deposition work—not the empty promise of the savings of a few cents per page. Stenographic court reporters provide an accurate and

timely record, and ensure that the integrity assured by the legal system is maintained. On the other hand, by utilizing poorly trained individuals who rely on nothing more than audio devices, it is not a matter of if, but of when there will be a problem with the transcript.

### About the Authors

Natalie R. Domanico, RPR, CCR-KY, is president of the Kentucky Court Reporters Association and owner of Domanico Reporting in Lexington.

Lisa Migliore Black, CCR-KY, is an active volunteer of the National Court Reporters Association and the Kentucky Court Reporters Association and owner of Migliore & Associates in Louisville.

## California Realtime Competition

*February 21, 2014*

The Deposition Reporters Association of California (DRA) is excited to announce the launch of the California Realtime Competition. Written and dictated by the same experts responsible for overseeing the realtime contests administered by NCRA and Intersteno, the competition will take place on Friday, February 21, 2014, at DRA's 18th Annual Convention in Palm Springs, California. Consisting of one five-minute legal opinion at 210 wpm and one five-minute two-voice at 230 wpm, and requiring 95% accuracy to qualify, this prestigious competition will test the realtime skills of the best writers in California and across the country.

For more information on full competition rules and to register, click [here](http://www.caldra.org/california-realtime-contest) or go to [www.caldra.org/california-realtime-contest](http://www.caldra.org/california-realtime-contest).



Be sure to join us in February at the [Westin Mission Hills Resort](#) in Palm Springs when we congratulate our first California Realtime Competition champion. More convention details coming soon!



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Have you ever been a member of DRA before? ☐ Yes ☐ No ☐ List me on DRA's website as available for freelance work

**PLEASE READ:** I certify that the contents of this application are accurate and complete and will advise the association of significant or material changes to the membership information. I agree to abide by the DRA Bylaws, its code of professional conduct, the written policies of the association, and in the decisions of duly constituted DRA Committees. I agree that my membership may be terminated immediately if this application contains false or misleading statements. You may read the DRA COPE and DRA BYLAWS on our website [www.caldra.org](http://www.caldra.org). **By initialing you are agreeing to the above terms and conditions.** \* \_\_\_\_\_ Initial

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(Any person whose primary reporting income is derived from the practice of deposition reporting or general reporting and who holds a current CSR license issued by the Court Reporters Board of California.)

☐ **Associate** ..... \$ 125 ☐ **Three-year associate membership** (\$375 – save \$25) ..... \$ 350

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