

The Deposition Reporter

DEPOSITION
REPORTERS ASSOCIATION
OF CALIFORNIA

APRIL 2020

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ASSOCIATION DEDICATED TO
THE FREELANCE
DEPOSITION REPORTER



PRESIDENT'S MESSAGE

ERIKA SJOQUIST, CSR *CalDRA* PRESIDENT

When I was up in Sacramento in February for CalDRA's annual convention, little did I know what was about to hit us, our community, our profession, our state, our nation, our world. What we were all prepared for, planning for, and hoping for this new year, 2020, has all drastically changed. In the month and a half since many of us met, the floor was literally pulled out from underneath us. This is not only an uncertain time for many of us, but a scary time as well. Trying to deal with and navigate through the unknown may ignite feelings of loss, anger, worry, fear, sadness, depression and anxiety.

We find ourselves staring at our phones and computers for hours hoping to catch that one e-mail that states we've been scheduled to do a remote depo and praying it stays on calendar. If you're like me, after heading to the refrigerator for the fifth time in an hour out of sheer boredom, I'm headed right back to the couch to binge-watch tv shows recommended by my daughter and packing on what some are calling "the COVID-19 pounds." I was going to say something about Tiger King, but I think I'll let y'all make your own conclusions on that one.

So where does this pandemic leave us, other than with jeans so tight that no matter how much we suck in and hold our breath, we still can't get in them, and no toilet paper anywhere on the planet? What do we do and where do we go from here?

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PRESIDENT'S MESSAGE

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Educate yourself. Be prepared. Watch how-to videos and read up on what other reporters and agencies are doing and saying about remote reporting. Do you have the right setup? Learn how to navigate through the various programs that are out there for remote reporting, such as Zoom, LiveLitigation, and other platforms that some agencies are using. Be familiar enough with it that you will be able to answer the attorneys' questions when they come up -- and they will come up. Once you're prepared, make sure your clients and agencies know you're ready to go, so that when they do get that remote depo on the calendar, they will think of you.

Reach out to your CPA, financial advisor, and/or bookkeeper about what Federal emergency benefits/funds you may qualify for and how to apply for them. Some reporters I've talked to have already started receiving monetary aid through a few of the programs available.

While it's quiet, it's a good time to practice, practice, practice those writing skills and knock out a new certification to add to your curriculum vitae. Right after "Jane Smith, CSR," wouldn't a few new letters after it, like "RPR," "CRR," "CCRR," "RMR," look really cool? I think so. I recently purchased *Court Reporting: Bad Grammar/Good Punctuation*, authored by Margie Wakeman Wells. It's a good time for me to refresh my knowledge in punctuation.

Stress relief. Relieving stress is extremely important. Taking a walk every day, meditation, prayer, yoga, all great stress relievers. Read a great book while you're outside getting some fresh air in the backyard. You know that one book that's collected dust because you simply did not have the time before to read it? Pick it up. It's calling you. Another one is social interaction. Zoom isn't just for work. I've been scheduling ZoomaPalooza Happy Hours with friends and colleagues. We get together via Zoom and talk, laugh, drink wine... some nights more than others. It's a lot of fun. Laughter is a great stress reliever.

I hope this missive gives you some new ideas and some comfort while our court reporting community tries to figure out our new normal until we can all get back to our old ways. Your CalDRA Board of Directors is communicating regularly via e-mail and Zoom. Please reach out to your District Representative (Lori Stokes, District 1; Veronica Guerrero, District 2; Lindsay Pinkham, District 3; Stephanie Leslie, District 4; Todd Olivas, District 5) for any comments, questions, ideas, concerns. If you're needing to talk or want to join me on one of my ZoomaPalooza Happy Hours, give a shout-out. I'd love to hear from you. erika@jedireporters.com – (805) 320-1286.

Until we can all meet again in person, stay safe and be healthy.

ERIKA SJOQUIST, CSR
CalDRA PRESIDENT

Dear Reader:

I included a ten-year-old quote from CalDRA past president John Squires in my final President's Message in the January 2020 DRA Newsletter. Things change, and John is not here to comment, so I should not have included that in my article. My intention was only to convey that this was the current board's opinion. I am sincerely sorry for any misconception this has caused.

Diane Freeman, *CalDRA immediate past president*

A SALUTE TO MONYEEN BLACK: A PHENOMENAL WOMAN

BY MARY PIERCE, CSR 6143, CALDRA PRESIDENT ELECT AND NEWSLETTER EDITOR



You've heard the expression "I can beat you with one hand tied behind my back."

Well, we all just got whooped by a woman who nearly had both hands tied behind her back. Monyeen Black. Beloved CalDRA Past President, realtime expert, tech extraordinaire, mentor, motorcycle enthusiast, loving wife, and Enzo the dog's mom.

Mo was the chair of our 2020 CalDRA Convention in Sacramento, and she nailed it, despite the physical challenges of recovering from a rare autoimmune disease. The 2020 CalDRA annual convention was a knock-it-out-of-the-park home run!

There were many contributions to this level of success:

1. The expertise of veterans Vicki Squires and Sally Poppe, our administrative gurus.
2. The work in the trenches by Sarah Seitz, CalDRA board secretary and visionary genius.
3. The assistance of all CalDRA board members and committee chairs.
4. The participation of so many appreciated attendees!
5. The forethought, dedication and smart planning by Monyeen Black, which was perhaps the most important reason why it was such a success.

What's better than attending an annual CalDRA convention that goes off without a single hitch? Well, the fact that we all got to see Mo's amazing spirit and humble grace, as well as her devoted husband's endless dedication and love. Keith has been by Mo's side from day one, as he was during the convention, except when we all glommed onto him to ask a zillion questions, all of which he patiently answered. Clearly these two belong TOGETHER. That is rare and should be recognized and admired.

I think I can speak for all who were there and had the good fortune to witness Monyeen conquer her obstacles when I say this:

Thank you for everything you've done. You are truly one of a kind, an icon.

God Bless You, Monyeen Black. For we are blessed that you have graced our lives.

DRA Cocktail Party



CalDRA 2020 Distinguished Service Award Recipient Katherine Wayne



Katherine Wayne, CSR, RMR, CRR, CCRR, started court reporting school at the age of 17, finishing her studies in under a year by challenging all the academic courses. A week after her 18th birthday, she passed the CSR and the RPR on her first attempt and began working for a small freelance agency. She went on to obtain her RMR, CRR and CCRR in short order, passing them all on her first attempt.

When CalDRA was formed in 1995, Katherine was among the first to join, serving as newsletter editor and on many other committees, culminating in her presidency in the 1999-2000 year.

Katherine operated her own freelance agency for many years. In 2014, she had to have three levels of her neck fused and could no longer work. She chose to give her business to her employees for \$1, rather than sell it to a big firm for a profit. And as happens with most people, she has been busier since retirement than she ever was while working!

On February 29, 2020, Katherine Wayne was honored at CalDRA's 24th annual convention. Her acceptance speech was met with a standing ovation, some tears, many smiles, and much appreciation for her selfless accomplishments on behalf of CalDRA and the entire court reporting profession.

Click the link below to watch the video. Even if you were there in person, you will enjoy watching it again. She is a gifted speaker and a beautiful person. CalDRA is so proud of its 2020 Distinguished Service Award recipient, Katherine Wayne.

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**Click [here](#) to
watch the video**
.....



WHEN HOLLY CALLS ...

BY LAURA BREWER, RDR, CRR, CCRR
FELLOW OF THE ACADEMY OF PROFESSIONAL REPORTERS

When Holly calls, I have to say yes. And Holly called.

Will you write an article?

Yes.

About the realtime contest -- What is it like to compete? What is your perspective as a contestant and as a member of a contest committee? What was the awards luncheon like for you? Where is your trophy?

Well, okay.

I retired from competition after the 2015 Intersteno Congress in Budapest. After years of competing, I wanted to help the people and organizations who had made it possible for me to compete. So I volunteered for NCRA's Contest Committee, assisted with verification and grading for Intersteno, and began helping Holly Moose and Andrea Chavez with CalDRA's Realtime Competition.

It takes a lot of work to put on a competition. It takes a captain – that's Holly – who is willing to do whatever it takes to make the competition a success. She is part visionary, part organizer, part workhorse, part master marketer, and part sweet talker. Writing tests, arranging logistics – the room, the sound system, infrared devices, printers -- creating a new grading system, enlisting volunteers to grade papers, securing professionals to dictate the tests, ordering the medals and trophies, proselytizing everyone in her contacts list to encourage participation, grading the tests, answering endless questions, and finally, standing up in front of everyone at the Awards Luncheon with Andrea Chavez, her first lieutenant and co-chair (who also writes tests, does all the math to figure out the scores and creates the gorgeous certificates of achievement), to present the results – the culmination of a year's work.

Last fall, I was a mere helper, making suggestions for the upcoming competition, giving feedback from a contestant's point of view, and assuring Holly and Andrea that I would be there to assist and grade papers.

Then Holly called. Actually, she emailed. It was January. She just planted the seed: "Laura, you should compete."

That is how Holly has made me a better person. Gentle persuasion.

Competing is stressful, but fun. It's humiliating, but invigorating. It's exciting, gratifying, and encouraging. It's a battle within yourself. There is camaraderie with your fellow contestants and with everyone involved with putting on the competition. It is a process that improves your skills and hardens your discipline.

The competition itself is 15 minutes of mental gymnastics. It's nearly impossible to keep my internal voice from commenting. Testimony first? That's different. That's my weakness. Damn! I dragged that final "s." What's wrong with me? Focus. Breathe. You can do this. Asshole! Really, Holly? You had to put the word "asshole" in the test?

The dictation continues. We all keep writing. No one dies. And then it's done! We commiserate with one another. I replay my mistakes in my head – those I remember. And I know there are more mistakes.

Holly – brilliantly – initiated a self-grading procedure with last year's competition. Not only do the contestants get to know immediately how they did, but this helps to reduce some of the workload on the team of dedicated reporters grading the papers. We all queue to print our tests, and the grading begins. Soon, we each have an idea of how we did – but not of how the other contestants did.

Then the waiting begins. It is midday Friday. The awards luncheon isn't until Saturday, when we will learn the results. The internal dialogue continues. Don't expect too much. I'm happy to qualify. Think about the other contestants. I'll never do this again! What a crazy idea it was to compete. Maybe I can do better next year!!

Finally, it's time to announce the results. Holly and Andrea come to the podium. They start with the literary leg -- (NOW they do the literary first)! Names of those who qualified are read, they come to the stage and are lauded for their accomplishment. They receive certificates recognizing them for each minute successfully completed with 95% accuracy or

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WHEN HOLLY CALLS ...

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better. A pause. Fourth place is announced. Debra Bollman Farfan. Third place, Ron Cook. (Really? I know I qualified!) Second place, Mark Kislingbury. Really? First place, Laura Brewer!

The testimony leg (did I say that's not my strong suit?) wasn't quite as good as the literary, but still a shocking third-place finish.


It is a thrill to qualify and sheer joy to medal. Congratulations to all qualifiers and medalists – we are all better off for your skills and dedication.

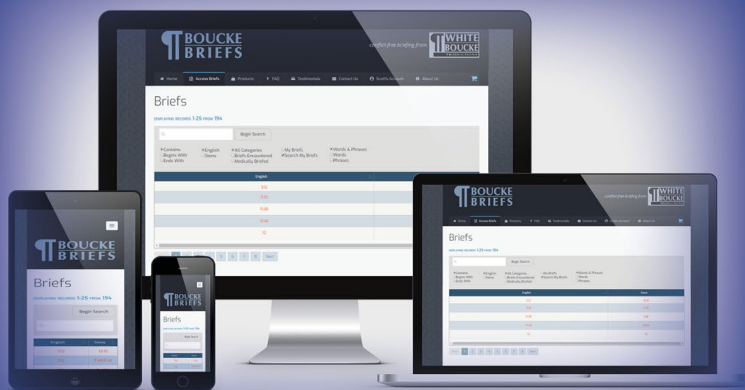
Thank you, Holly, for making me a better person.

And my trophy? I just moved it off my desk this week. It looks a little too much like a horn projecting from my head on the Zoom screen. It sits with some other trophies on my bookshelf, reminding me to never stop striving for improvement and of the true value of friendship.

Special congratulations to Mark Kislingbury, the 2020 CalDRA Realtime Champion, and Ron Cook, who took second place overall. And a big thank you to Holly Moose, Andrea Chavez, and everyone who worked so hard to make the Realtime Competition a success.

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DRA Convention 2020



DRA Convention 2020



MY FIRST CALDRA REALTIME COMPETITION

BY SUSAN H. SWAN, RPR, CRR, GCRR

About a month before the February 2020 CalDRA convention, a few reporter friends asked me if I would be interested in competing in the Realtime Competition. I thought, “Me? Oh, no. Only the superstars enter that. I’ve scaled back to part-time, and I am comfortable just staying in my lane over here and trucking along as I have been.”

I casually mentioned to my husband that it had been suggested that I try it. His comment was, “Yeah, it would be easier not to, wouldn’t it?” Of course, it was at that very moment I decided that I would give it a try. I signed up immediately, before I could change my mind or talk myself out of it.

So now how to prepare? I’m a fairly clean writer. I purchased some prior practice tests from NCRA. I knew, however, that I needed a much more structured schedule. I also knew that Rich Germosen has a Facebook practice group that is very serious. I emailed him and explained that in about 30 days, I would be participating in the CalDRA Realtime Competition and would he please admit me to his practice group. He responded that there was a three-week waiting list. I practically resorted to begging to get in. He finally agreed to let me in, but not before he asked me “Are you all in?” Yes, I was, Rich!

This group holds you accountable to practice every single day. You also have access to a large trove of practice material. I clicked on a 225-wpm Q&A to start with. I was thinking, “I had no trouble with the RPR, after all. This should be doable.” I was not too concerned, or should I say at least at that point I was not. But wait. I quickly realized I was not getting it! Not even close.

That was a huge wakeup call for me. It forced me to the realization that although I write clean, I do not have the speed that I once had. At that point, I became even more determined. I rolled out of bed every day and went straight to my office. Practice, practice, practice. After about 15 days, I started to see noticeable improvement.



However, I quickly became painfully aware of three important issues:

One, I had not been paying attention to my dictionary and working on globals. I must have been just quickly replacing misstrokes and not taking into account whether those misstrokes could become a permanent global. I began taking the time to enter them all in my dictionary.

Two, I write out way too many words and phrases. My use of briefs is woefully inadequate, and those are what save you when you need the speed in the real world or in a competition. I will embarrass myself now and admit that I did not even have a brief for “basically.” I started keeping a list of three- and four-stroke commonly used words for which I needed briefs.

Three, I realized we all need to be steno athletes. You have to practice whether you ever compete or not. Golfers do not walk into a tournament without practicing every day. But here I was going out to jobs when I had not touched the writer in a week!

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MY FIRST CALDRA REALTIME COMPETITION

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Suddenly, it was Friday, February 28, 2020, the day of the competition. I asked my husband to please get me plenty of coffee; then please leave me alone. I started practicing at 6:30 a.m., before I went down to set up. Now it truly was “go-time.”

I think I was the second or third person to arrive. As the room filled up, I saw court reporter royalty: Mark Kislingbury, Ron Cook, and Laura Brewer. I thought I had gone to court reporting heaven. I have always admired them so much. (And after I had taken the tests, I admired everyone in that room.)

The test is professionally administered by Andrea Rinker Chavez and Holly Moose and other volunteers. Somehow

they made me feel a little calmer. And so it begins. But wait! Why are my fingers feeling like cement? I have prepared for this. Why are they not cooperating?

I did not do as well as I had hoped, but I would not trade the experience for anything. There were so many benefits, one of which was seeing where I needed to improve. If you’re wondering how I fared in the competition, I made it through the end of Minute 2 of the literary leg (180 WPM) and through the end of Minute 3 of the testimony leg (210 WPM) with a minimum of 95% accuracy on each leg.

IT WAS SO EXCITING! I am hooked. Who wants to compete next year? You can do this! SEE YOU THERE!

LONGTIME CALDRA MEMBER BECOMES A NEW BOARD MEMBER

BY LINDSAY PINKHAM

I have long admired all that CalDRA has done and continues to do for our profession. But like most of us busy freelance reporters, I have never stopped to consider just how they accomplish all these great things. As your newly elected District 3 rep, I am now getting a firsthand eyeful. Yesterday, as I was editing a transcript, I kept my eye on the flurry of emails among board members about the urgent need to disseminate an enote expressing support for our members and providing valuable resources to help them through this COVID-19 situation. Each and every one of these folks is a hardworking reporter with deadlines to meet, some with families to care for in addition. I thought to myself, “How are they going to get this enote out at all, let alone today?”

As I watched in amazement, the teamwork unfolded. One board member drafted the language, others offered edits, others offered to proof it, another checked the links, another got it into enote form, and yet another posted far and wide, all within a few hours. Apparently, they are never too busy to set aside their personal needs for the benefit of our members. I was amazed. Our new boardmember training is on April 25th, and there is much I have yet to learn, but one thing I know is that your CalDRA board works together selflessly in impressive harmony for the good of the profession, above its own needs. I saw that firsthand and am inspired and proud to be a part of it.

COVID QUARANTINE LIST

HUMOR, BY ANONYMOUS

Editor Note

Hopefully, you're all staying healthy and finding a way to pass the time during this unprecedented event in our lives. We must stay positive, and humor has always been a good way to do that. Here's a little ditty culled from the Internet to brighten your day.

My Self-Isolation Quarantine Diary

Day 1 – I Can Do This!! Got enough food and wine to last a month.

Day 2 – Opening my 8th bottle of wine. I fear wine supplies might not last.

Day 3 – Strawberries: Some have 210 seeds. Some have 235 seeds. Who knew?

Day 4 – 8:00pm. Removed my Day Pajamas and put on my Night Pajamas.

Day 5 – Today, I tried to make hand sanitizer. It came out as Jell-O Shots.

Day 6 – I get to take the garbage out. I'm so excited, I can't decide what to wear.

Day 7 – Laughing way too much at my own jokes.

Day 8 – Went to a new restaurant called "The Kitchen." You have to gather all the ingredients and make your own meal. I have No Clue how this place is still in business.

Day 9 – I put liquor bottles in every room. Tonight, I'm getting all dressed up and going bar hopping.

Day 10 – Struck up a conversation with a spider today. Seems nice. He's a Web Designer.

Day 11 – Isolation is hard. I swear my fridge just said, "What the hell do you want now?"

Day 12 – I realized why dogs get so excited about something moving outside, going for walks or car rides.
I think I just barked at a squirrel.

Day 13 – If you keep a glass of wine in each hand, you can't accidentally touch your face.

Day 14 – Watched the birds fight over a worm. The Cardinals lead the Blue Jays 3-1.

Day 15 – Anybody else feel like they've cooked dinner about 395 times this month?

Day 16 – I learned coffee filters and dryer sheets are twice as absorbent as toilet paper.

Coronavirus: A Poem

BY TERRY LITTLEFIELD

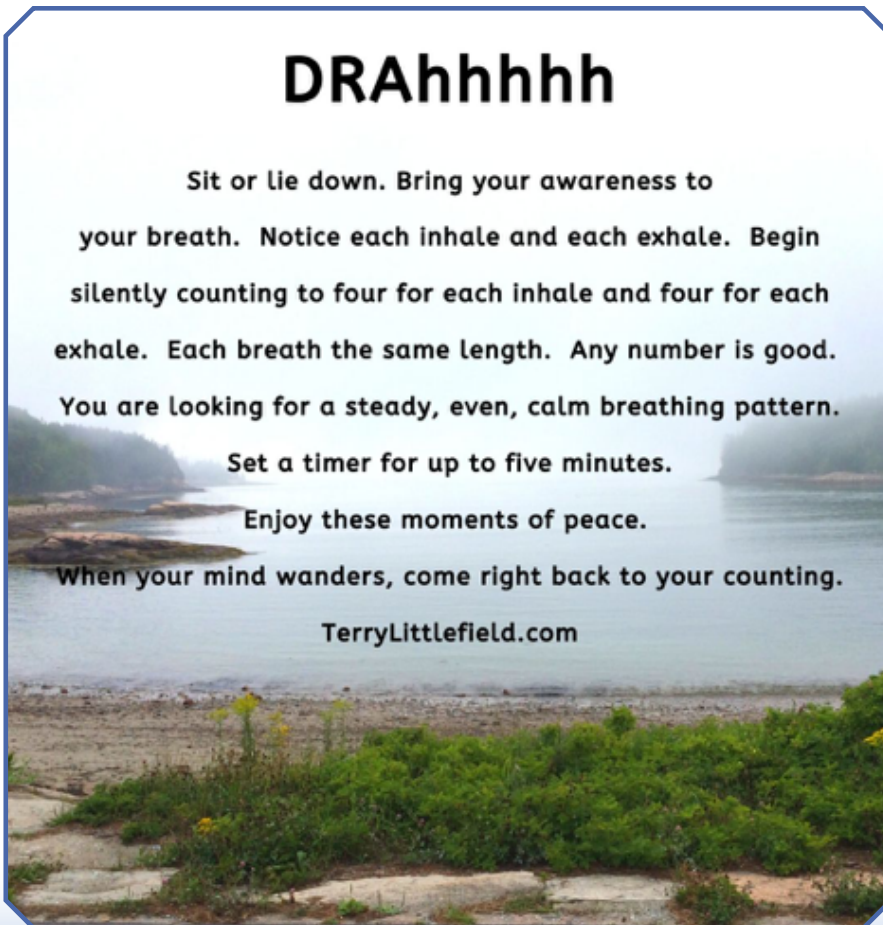
Can you be present with this very moment?
Om or meditate or dance for enjoyment.
Really honor the waves of your emotions.
Or remember you are the waves; you are the ocean.
Not everything posted is for your highest good.
Allow yourself to pause and relax around the SHOULD.
Value your breath, your hot shower, the sun and the rain.
Inspire others by being kind and by throwing less blame.
Read, reach out, remember your authentic self.
Uniting at a distance, maybe early planning of Elf on a Shelf.
Sit and be still. And through conversations, help others stay full.

DRAhhhhh

Sit or lie down. Bring your awareness to
your breath. Notice each inhale and each exhale. Begin
silently counting to four for each inhale and four for each
exhale. Each breath the same length. Any number is good.
You are looking for a steady, even, calm breathing pattern.

Set a timer for up to five minutes.
Enjoy these moments of peace.
When your mind wanders, come right back to your counting.

TerryLittlefield.com



COLLECTING ON DELINQUENT INVOICES —A POSITIVE STATE BAR EXPERIENCE

BY EVELYN MAH, CSR/AGENCY OWNER
ABRAMS, MAH & KAHN

Many years ago at a CalDRA convention, I attended a presentation by Joe Dunn, executive director of the State Bar of California, wherein he talked about the Bar becoming more active in public complaints against its members. I had previously made complaints to the Bar regarding attorneys against whom I had obtained small claims judgments, and the response had always been that it was a collection matter and not within the Bar's jurisdiction to get involved.

Shortly after Dunn's seminar, I obtained a large judgment against a husband-wife law firm, who just ignored it, so I decided to file a complaint with the Bar and send a letter personally to Joe Dunn, to test his representation.

Not long afterwards, I received a postcard from the State Bar informing me that an investigation file had been opened against the offending attorneys. Shortly after that, I received a phone call from the Bar, advising me that the attorneys had sent my payment there.

I made a trip to the State Bar in Los Angeles to collect my money. I came with a big box of doughnuts, which gave

me a few minutes with a staff member. I asked him why all of a sudden the Bar was taking action, and his reply was to cite CCP Section 2025.510(h). He also informed me that it was not necessary to even get a judgment before filing a complaint.

My practice now is to wait until the bills are over a year old so that I don't flood the State Bar with complaints. My final letter to the client incorporates the language of CCP Section 2025.510(h), with a cc to the State Bar. I give the client a date by which I expect payment. I don't actually send the cc to the State Bar unless the attorney doesn't pay by the designated date.

My many experiences have been good. The Bar has always been very responsive. For all complaints that I have filed, they have followed up with a phone call to make sure matters were handled as was represented to them by the attorney/s.

As a result, I have not been to small claims in over six years. It's unfortunate that we have to go through this procedure at all in order to be paid for the services we provide, but now at least it's a little bit easier with the help of the State Bar.

Ask DRA

BY ANTONIA PULONE, DEPO DIPLOMAT

REMOTE DEOPS OF PARTY WITNESSES

DEAR DEPO DIPLOMAT:

Quick question for you. We have clients and reporters looking for an alternative way to do depositions without traveling. If the attorneys stipulate that it is acceptable, can we proceed forward with depositions remotely for applicant deops even though they are a named party? Please let me know if you have a few minutes to discuss. I'm being bombarded with calls and emails and want to be sure to answer questions accurately.

DEAR DRA MEMBER:

Both the California Code of Civil Procedure and the Rules of Court allow for the taking of remote deops though require that a party witness must be in the presence of the depo officer. But yes, with the written stipulation of all counsel, which the reporter should always ask counsel to state on the record at the outset of a remote deposition of a party, the depo can proceed forward. And also, the reporter, as a California CSR, is authorized to administer the oath for any depo taken remotely. I'll paste the relevant language from both codes below for you.

I should also add, however, that for the time being, while the shelter-in-place directive applies in California in response to the COVID-19 pandemic, the California Judicial Council has approved an emergency rule that permits the taking of remote depositions of parties without the depo officer being present with the party. And so for now and until this emergency rule is lifted, California CSRs may report party depositions by remote means without the need for a stipulation being entered into by counsel.

This new emergency rule reads as follows:

Emergency Rule 11. Depositions through remote electronic means

(a) Deponents appearing remotely

Notwithstanding any other law, including Code of Civil Procedure Section 2025.310(a) and (b), and rule 3.1010(c) and (d), a party or nonparty deponent at their election or the election of the deposing party, is not required to be present with the deposition officer at the time of the deposition.

(b) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council

The existing language regarding remote deops, without the benefit of the Judicial Council's Emergency Rule 11 currently in effect, as it appears in the California Rules of Court, reads as follows:

Rule 3.1010. Oral depositions by telephone, videoconference, or other remote electronic means

(a) Taking depositions

Any party may take an oral deposition by telephone, videoconference, or other remote electronic means, provided:

- (1) Notice is served with the notice of deposition or the subpoena;
- (2) That party makes all arrangements for any other party to participate in the deposition in an equivalent manner. However, each party so appearing must pay all expenses incurred by it or properly allocated to it;
- (3) Any party may be personally present at the deposition without giving prior notice.

(b) Appearing and participating in depositions

Any party may appear and participate in an oral deposition by telephone, videoconference, or other remote electronic means, provided:

- (1) Written notice of such appearance is served by personal delivery, e-mail, or fax at least three court days before the deposition;
- (2) The party so appearing makes all arrangements and pays all expenses incurred for the appearance.

(Subd (b) amended effective January 1, 2016; previously amended effective January 1, 2007.)

CONTINUED ON PAGE 17

(c) Party deponent's appearance

A party deponent must appear at his or her deposition in person and be in the presence of the deposition officer.

(d) Nonparty deponent's appearance

A nonparty deponent may appear at his or her deposition by telephone, videoconference, or other remote electronic means with court approval upon a finding of good cause and no prejudice to any party. The deponent must be sworn in the presence of the deposition officer or by any other means stipulated to by the parties or ordered by the court. Any party may be personally present at the deposition.

(e) Court orders

On motion by any person, the court in a specific action may make such other orders as it deems appropriate.

(Subd (e) amended effective January 1, 2007.)

Rule 3.1010 amended effective January 1, 2016; adopted as rule 333 effective January 1, 2003; previously amended and renumbered as rule 3.1010 effective January 1, 2007.

Now the CCP language that applies to remote depositions and the CSR authority for administering oaths, both in person and remotely:

Code Of Civil Procedure

2025.310.

(a) A person may take, and any person other than the deponent may attend, a deposition by telephone or other remote electronic means.

(b) The court may expressly provide that a nonparty deponent may appear at the deposition by telephone if it finds there is good cause and no prejudice to any party. A party deponent shall appear at the deposition in person and be in the presence of the deposition officer.

(c) The procedures to implement this section shall be established by court order in the specific action or proceeding or by the California Rules of Court.

(Added by Stats. 2004, Ch. 182, Sec. 23. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

2093.

(a) A court, judge or clerk of a court, justice, notary public, and officer or person authorized to take testimony in an action or proceeding, or to decide upon evidence, has the power to administer oaths and affirmations.

(b) (1) A shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths and affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter is entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) **This subdivision also applies to depositions taken by telephone or other remote electronic means** as specified in Chapter 2 (commencing with Section 2017.010) and Chapter 9 (commencing with Section 2025.010) of Title 4.

And just FYI, while this is off topic a bit, in case you don't charge the fees we're allowed to charge per (b)(1) referenced above, I'll cite that Government Code section here. I know it's not the norm in SoCal, what we used to refer to as our notary fees up here, but we are authorized to charge these fees:

Government Code

8211.

Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(c) For all services rendered in connection with the taking of any deposition, the sum of thirty dollars (\$30), and in addition thereto, the sum of seven dollars (\$7) for administering the oath to the witness and the sum of seven dollars (\$7) for the certificate to the deposition.

Let me know if you have any questions about any of the above. And good luck with all your Zooming.

TONI

Antonia Pulone, CSR 3926
DRA Depo Diplomat

PROTECTIVE ORDER REMINDER

BY HOLLY MOOSE, RDR-CRR-CCRR,
FELLOW OF THE ACADEMY OF PROFESSIONAL REPORTERS

I finally got around to reading the April 10 issue of the CRB newsletter and had a “whoa” moment. I myself would have answered the below question INCORRECTLY. It’s been drilled into our heads that we must go off the record whenever anyone mentions “protective order,” and I got stuck on that phrase here.

Maybe we could all use a reminder that our obligation to go off the record in relation to a protective order ONLY APPLIES TO TESTIMONY, not to argument between counsel, and ONLY WHEN A PARTY OR THE DEPONENT DEMANDS THAT WE DO SO. Interesting! The mere mention of a protective order is not sufficient.


And although it is not included in this example, anything a party or the deponent may have wished to put on the record after plaintiff counsel left the room must be reported and included in the record. Counsel leaving the room does not mean we stop writing. Also, should they manage to resolve their differences and agree that a protective order is not necessary after all, the deposition would continue, business as usual.

From the CRB April 10 newsletter, page 10 of the FAQs:

Q. I just took a deposition where plaintiff counsel wanted to mark the transcript as confidential, but defense counsel would not agree. A disagreement ensued, and plaintiff counsel indicated he wanted to suspend the deposition to seek a protective order. They then continued to argue for another minute or two. Should the transcript immediately end when the “protective order” was first mentioned, or should I include the additional arguing that ensued until plaintiff counsel left?

A. California CCP 2025.470 states: “The deposition officer may not suspend the taking of testimony without the stipulation of all parties present unless any party attending the deposition, including the deponent, demands that the deposition officer suspend taking the testimony to enable that party or deponent to move for a protective order under Section 2025.420 on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party.” The code is specific to the taking of testimony; therefore, the transcript would include all argument.

Depression

by:  ProCAT



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DRA BILL WATCH

ANTONIA PULONE, CHAIR, LEGISLATIVE COMMITTEE

Since members of the legislature have been essentially sheltered like the rest of us since mid-March, there has been little to no activity at the Capitol and won't be until they return to work, which is now scheduled to be May 4th. For that reason, bills introduced at the beginning of this session in January that were included in our last bill watch will show little or no change in their status. Other bills introduced in 2019, the first year of this two-year session, which didn't clear their policy committees, failed to advance and have been removed from this report.

The deadline for introducing new bills was February 21, 2020, and some bills relevant to reporting were introduced just prior to that deadline and have been added below. You'll see some of particular interest to us: two bills including exemption for CSRs from the language of AB 5 and one attempting to codify in the CCP the conditions included in the SoCal stip, so you might want to check out this bill watch. And then be sure to stay tuned for important enote announcements coming from your DRA Board and legislative committee with our requests to get involved and play a critical role in supporting or opposing legislation that could seriously affect our profession.

Please note that the status shown here for each of the following bills was current as of April 22, 2020.



AB 1469 (LOW)

Summary: This bill was amended 9/13/19 to ensure consistent regulation of corporations owned by board-certified reporters and those not owned by board-certified reporters by requiring registration with the Court Reporters Board of all non-CSR-owned entities. The CRB would be required to approve or deny an entity's registration based on specified requirements and findings; would require payment of an annual registration fee and designation of a board-certified reporter-in-charge; would make registration valid for five years; would provide for suspension and revocation of registration under specified circumstances; and would require the CRB to make available online a directory of registered entities.

Support/Opposition: Author sponsored. Supported by CalDRA, CCRA, and the Court Reporters Board. No opposition on file.

Status: Heard by the Assembly Business & Professions Committee and Appropriations Committee. Passed on the Assembly floor (76 - 0) on 1/30/20 and ordered to the Senate.

AB 1850 (GONZALEZ)

Summary: This bill would declare the intent of the legislature to enact legislation to further clarify the application of the Dynamex case requirements that have been added to Labor Code 2750.3 by AB 5. As expected, the bill was amended to add further exemptions from the language of AB 5 for certain trades, photographers and freelance writers being among them.

Support/Opposition: No support or opposition on file.

Status: Amended 2/27/20. Re-referred to the Committee on Labor & Employment.

AB 1925 (OBERNOLTE)

Summary: This bill would expand on existing exemptions from the application of Dynamex and the ABC test to also include small businesses. To be defined as a "small business," it must be independently owned and operated; not dominant in its field of operation; have fewer than 100 employees; and average gross receipts of \$15 million or less over the previous three years.

Support/Opposition: No support or opposition on file.

Status: Introduced 1/14/20. May be heard in committee 2/14/20

AB 1928 (KILEY AND MENENDEZ; CO-AUTHORED BY FONG, GALLAGHER, JONES & MOORLACH)

Summary: The bill would repeal provisions in Labor Code 2750.3 and instead require determination of independent contractor -versus- employee status to be based on the multifactor test in Borello. It would take effect immediately as an urgency statute.

Support/Opposition: No support or opposition on file.

Status: : Introduced 1/15/20. Motion to suspend voted on 2/27/20; failed (15 - 55).

CONTINUED ON PAGE 22

DRA BILL WATCH

CONTINUED FROM PAGE 21

AB 3136 (VOEPEL; CO-AUTHORED BY SIX ASSEMBLY MEMBERS AND SENATOR BATES)

Summary: This bill would exempt Certified Shorthand Reporters from the applications of the Dynamex case and the language of AB 5 that has been added to the Labor Code, the Unemployment Insurance Code and the wage orders of the Industrial Welfare Commission.

Support/Opposition: No support or opposition on file.

Status: Introduced 2/21/20. Referred to the Committee on Labor & Employment.

SB 16 (ROTH) (PRINCIPAL CO-AUTHORS, ASSEMBLY MEMBERS CERVANTES AND OBERNOLTE) (ALSO CO-AUTHORED BY SENATOR STONE AND ASSEMBLY MEMBER MEDINA)

Summary: The bill would, now with amendments, appropriate \$36,500,000 from the General Fund for 25 Superior Court judge positions. The Judicial Council would determine which positions to be funded. We were hopeful that officialships to support these judgeships would also be established and funded.

Support/Opposition: Supported by Consumer Attorneys of CA (sponsors), Civil Justice Association of CA, CA Chamber of Commerce; no opposition on file.

Status: Passed by the Senate Judiciary Committee. Referred to Senate Appropriations Committee; held in committee and under submission. Will not be moving forward. Returned to the Secretary of the Senate 2/3/20.

SB 73 (MITCHELL)

Summary: Also known as the Budget Bill of 2019, it would make appropriations for the State government for the 2019-2020 fiscal year.

Support/Opposition: No support or opposition on file.

Status: Referred to the Senate Committee on Budget and Fiscal Review; not heard in committee. Did not progress and will not be moving forward. Returned to the Secretary of the Senate 2/3/20.

SB 875 (GROVE AND JONES; CO-AUTHORED BY BATES, BERGEAS, CHANG, DAHLE, MOORLACH, MORRELL, NIELSEN AND WILK; ASSEMBLY MEMBERS GALLAGHER AND LACKEY)

Summary: This bill would amend Labor Code 2750.3 to exempt from the ABC test interpreters and translators.

Support/Opposition: No support or opposition on file.

Status: Introduced 1/21/20. Referred to the Senate Committee on Labor, Public Employment & Retirement.

SB 900 (HILL)

Summary: The bill exempts specific occupations and business relationships from the application of the ABC test resulting from the Dynamex case and also exempts "professional services" as defined from the application of the ABC test, subject to certain conditions, and it expands the definition of "professional services" to include Certified Shorthand Reporters, among others.

Support/Opposition: No support or opposition on file.

Status: Introduced 1/30/20. Amended 3/26/20 and re-referred to the Committee on Labor, Public Employment & Retirement.

SB 991 (LENA GONZALEZ)

Summary: This bill essentially re-introduces the language of AB 1385 (Santiago), which did not move forward, a bill to raise the rates for court transcripts. The bill would, as of July 1, 2021, raise the rate to \$1.13 (from \$.85) per folio for an original transcript and \$.26 (from \$.20) per folio for the first copy ordered by the court, a party or person, and to \$.20 (from \$.15) per folio for each additional copy ordered at the same time. It would also extend the 50% expedite charge, currently only allowed for civil transcripts, to all court transcripts,

Additionally, it would require the Judicial Council, by Jan. 1, 2023, to bring recommendations to the legislature for uniform transcription rates within California.

Support/Opposition: No support or opposition on file.

Status: Introduced 2/19/20. Referred to the Committee on Judiciary and the Committee on Business, Professions & Economic Development. To be heard on 3/24/20, but hearing postponed by the Committee.

CONTINUED ON PAGE 23

DRA BILL WATCH

CONTINUED FROM PAGE 22

SB 1146 (UMBERG)

Summary: The bill would amend CCP 2025.550 to include language that would allow attorneys to stipulate to a number of modifications in post-depo procedures that would relieve the noticing attorney and the reporter of their duties regarding witness review, correction, approval and custody of the original transcript. The attorney designated to maintain custody of the original transcript and exhibits would make them available to all parties upon request.

Support/Opposition: No support or opposition on file.

Status: Introduced 2/20/20. Amended by author 3/25/20; re-referred to Committee on Rules.

NOTE IT!

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APRIL 25, 2020 – 10:00 AM TO 4:00 PM
BY VIDEOCONFERENCE

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JULY 18, 2020 – 10:00 AM TO 4:00 PM
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