

April 2007



**CCRA 2007 Board of Directors and Friends during a recent meeting.**



**SAVE THE DATE!**

**CCRA 2007 Convention | October 6-8, 2007**

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## CCRA Online

The Electronic Magazine  
of the California Court  
Reporters Association

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### CCRA Online Copy Deadlines

The deadline for ad and article copy for *CCRA Online* is the first of the month prior to the scheduled publication date. Articles, ad copy, changes of address, complaints of nondelivery and subscription requests should be directed to CCRA, 2400 22nd Street, Suite 110, Sacramento, CA 95818 or call 916/443-5090. Advertising inquiries also should be directed to the Association office. Photographs accompanying articles should be RGB color JPEG files with a resolution no less than 120 ppi.

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### CCRA MISSION STATEMENT

*The mission of the California Court Reporters Association is to advance the profession of verbatim shorthand reporting by promoting professional reporting excellence through education, research, and the use of state-of-the-art technology; establishing and maintaining professional standards of practice; and advocating before legislative and regulatory bodies on issues which impact the judicial system and others served by the court reporting profession of California.*

### MARCH MADNESS

I realized recently, after two of your new board members made the comment that, "I never realized all that CCRA does for the profession until I came on the board," that perhaps it might be the right time to touch base with you and bring you up to speed on just what CCRA has been doing for you and the profession over the past few months.

The title of my message, "March Madness," denotes the NCAA Basketball tournament and its chaotic nature – four games being played simultaneously, games being played all around the country, alumni betting on their team, the student body traveling many miles to cheer and support their school's team, and finally culminating in "The Final Four."

This type of chaos, it seems, has paralleled the past six weeks of CCRA's challenges, resulting in what I might call "The Final Four" – the four major topics CCRA is addressing at this point. Before I get to the discussion of "The Final Four," first a bit of background on just what CCRA has been generally doing for you, the reporter.

Legislatively CCRA, in conjunction with DRA, has secured an author to carry our bill, AB 1211 (Price), that would amend the Code of Civil Procedure 2025.510 to include the attorney is responsible for the payment of our services and products. You will find the AB 1211 Fact Sheet that our lobbyists are using to educate the legislature within this publication. This Fact Sheet will explain in detail the purpose of the legislation. As of this time, the California Consumer lawyers are on record as not being opposed to this bill. AB 1211 is currently set to be heard in the Assembly Judiciary Committee on April 10 at 9:00 a.m.

AB 582 (Evans), sponsored by SEIU and supported by both CCRA and COCRA, is moving through the legislature. This bill will increase the folio rate for officials – long overdue since it's been 17 or more years since you officials have seen a raise for your transcripts.

With the help of the Past Presidents Advisory Committee, we have now completed a document titled, "CCRA Accomplishments." This document is also within the body of this newsletter. This document gives you a historical perspective of CCRA's accomplishments, in addition to the current member benefits. This document is a work in progress and will be updated each year.

Both the *Freelance* and *Official Compendiums* have been updated and are available for purchase on our website. All of the Rules of Court have been renumbered in their entirety. So officials, it's a must to purchase your compendium!



*Sandy Bunch*  
*VanderPol*  
*CSR, RMR, CRR*

### Some other CCRA Activities include:

- Writing a letter to a particular transcript repository to cease and desist the illegal uploading of trial transcripts and deposition transcripts.
- Working on the establishment of a Task Force consisting of both official and freelance reporters to address the protection of our copies as relates to these transcript repositories and/or a strategic approach to this type of practice.
- Officials commencing a pilot project on the use of a transcript repository, controlled by the reporter, for the uploading of their transcripts.
- Involvement in gathering and investigating the LiveNote purchase of the Engage patents and how it affects realtime going forward (see my February President's message).
- Attendance at the past two Court Reporters Board meetings.
- Attendance by board members at the NCRA Leadership and Bootcamp functions.
- Participation by five board members in NCRA Committee meetings.
- Analysis of the recently-released AOC California Case Management System as relates to the implementation of electronic filing of official reporters' transcripts, as well as seeking input from each CCRA official reporter association on the approach to the CCMS (see the article hereinafter explaining in more detail the CCMS).
- Analysis of the new Rule of Court requiring continuing education of court staff, including court reporters (see in detail this rule below).

*Continued on page 5*

## 2006/07 CCRA Directors

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## Committees and Chairperson

### Committees

Bylaws	<b>Arnella Sims</b>
CCRA Online	<b>Connie Parchman</b>
Continuing Education	<b>Carolyn Dasher</b>
Depo Advisory	<b>Sheri Turner</b>
Finance	<b>Teresa Fletcher</b>
Judicial Procedures	<b>Tom Pringle</b>
Legislative Advisory	<b>Carlos Martinez</b>
Membership	<b>Anna-Marie Cole</b>
NCRA Testing	<b>Carolyn Dasher</b>
Nominating	<b>Doreen Perkins</b>
PACCRA	<b>Jim Partridge</b>
Public Relations/Support Our Students	<b>Gerie Bunch</b>
Technology	<b>Lesia Mervin</b>

## FYI

*Cypress College is offering advanced realtime classes, along with advanced training on Eclipse and CaseCAT.*

**For more information contact Ms. Freer at 714-808-4574.**



**Attention all CSRs!**  
**The Court Reporters Board**  
**now has an email subscriber list!**  
**Check out their new link at <http://www.courtreportersboard.ca.gov>**  
**and sign up to be notified of current Board information.**

## President's Message, continued from page 3

- Analysis of and offering assistance, if needed, to the United States Court Reporters Association as relates to the audio streaming pilot project in Washington Federal courts. You may find the ABC story at: <http://abcnews.go.com/Technology/wireStory?id=2961755>

All of these activities only touch on what CCRA is doing for you. Each of the committees is working hard to accomplish the charges assigned to them, as discussed in my November President's message.

Now, to the "Final Four." I have to apologize for leading you on, but due to the sensitive and strategic nature of "The Final Four," at this time I cannot discuss these with you. Tune in to the May *CCRA Online*, where, hopefully, we can share with you a positive result as to "The Final Four." By then, we will also know the result of the true "Final Four." Go UCLA!

Last, but not least, I want to congratulate Barkley Court Reporters for being the first and only "Green" Court Reporting firm in California. You can find the *San Francisco Daily Journal* article in its entirety at [Daily Journal](http://www.dailyjournal.com) Newswire Articles [www.dailyjournal.com](http://www.dailyjournal.com)

ENVIRONMENTAL • Mar. 14, 2007

*Court Reporting Giant Starts to Green Itself Off Paper*

By Dennis Pfaff, *Daily Journal* Staff Writer



## Cal-E-Licious

By Gerie A. Bunch, CSR, RPR, Public Relations/SOS Committee Chair

### CROCK-POT CACCIATORE

*1 whole chicken, cut up, (or 8 – 10 pieces of legs and thighs)*

*Flour*

*Salt and pepper*

*1 purple onion, chopped*

*1 green bell pepper, chopped*

*5 cloves garlic, finely chopped*

*6 – 8 mushrooms, sliced*

*1 14 oz. can diced stewed tomatoes*

*1 8 oz. can tomato sauce*

*¾ c. Red wine*

*½ tsp. thyme*

*½ tsp. oregano*

*½ c. fresh basil, coarsely chopped*

*2 tsp. sugar (to taste)*

*Your favorite cooked pasta*

Dredge chicken (skin on) in flour seasoned with salt and pepper. Fry in a little bit of oil until browned. Place browned pieces in crockpot. Sauté in same pan onion, pepper and garlic for about 5 minutes. Pour over chicken. Add the remaining ingredients and gently stir to mix. Cook on high for 4 to 5 hrs, or on low for 8 hrs. Ladle off fat. For serving, carefully remove very tender chicken pieces into a shallow bowl; place pasta in a separate pasta bowl topping with several scoops of sauce. Sprinkle both with freshly grated Parmesan cheese. Offer extra sauce on the side. Serve with steamed zucchini or a green salad.

***Perfecto!***

# CCRA's FREELANCE & OFFICIAL COMPENDIUMS

## AVAILABLE SOON!

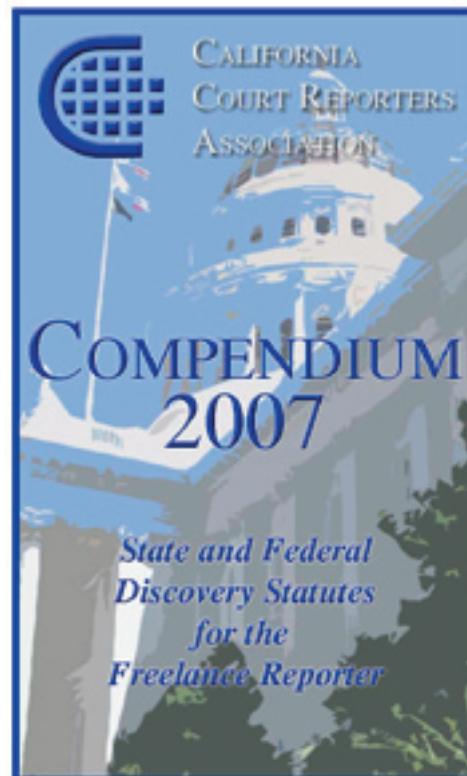
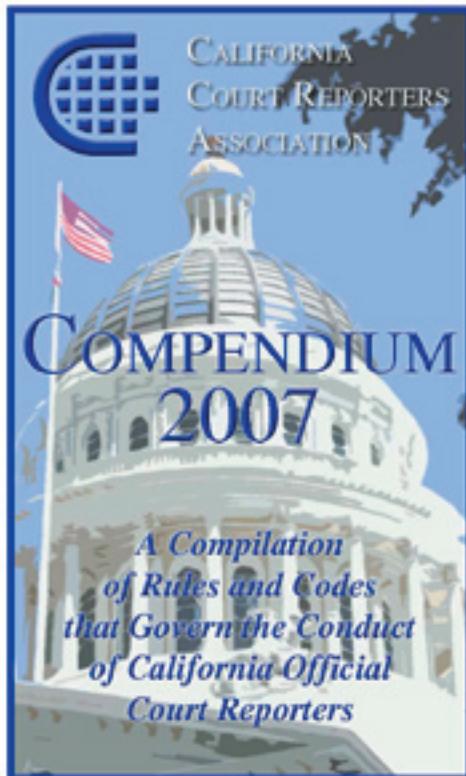
### OFFICIALS – DID YOU KNOW??

**Officials, are you aware that Rule 4 and Rule 9 of the California Rules of Court no longer exist?**

As many of you know, and for those who don't, the California Court Reporters Association publishes a Freelance and an Official Compendium, which we update each year. This compendium contains all of the codes, rules and regulations governing court reporters in the State of California.

I'll bet that most of you are unaware that the Judicial Council renumbered all of the California Rules of Court and that that became effective January 1, 2007. It is very difficult for reporters to keep apprised of the changes and that is why it is important for you to obtain a compendium each year to ensure that you are in compliance with the new laws.

This year in the Official Compendium we have added a couple of additional appendices that we hope you will be able to make use of. For ease in transcript production, we included a list of frequently cited motions and cases, such as, Boykin-Tahl and Serna. Also included is a page with research web sites. These two additions to the compendium are a work in progress, so we would welcome and encourage you to send us your favorite cites for research to share in next year's edition. If you report death penalty cases, the death penalty time line and guideline are a must. If you use this document as a check-off list, you will not go wrong. The guideline also gives you a list of problems frequently encountered by the Supreme Court that results in them returning your transcripts for corrections. This guideline should be used just before you file your death penalty transcripts. Go down the list of problems and make sure that you're in compliance. It will save you a lot of grief in the long run.



**Go to [www.cal.ccra.org](http://www.cal.ccra.org) to order your compendium now!**

By Rose M. Goni, CCRA Director

## PROCRASTINATION

There is a 250-page monster in my computer. This monster's two-week birthday is coming soon, and counsel are calling because they want to know when they can expect to see the monster in their office. The problem is I can't seem to get going on the stupid thing. And what am I doing right now? I'm writing to all of you. Oh, yes, this all-too familiar dance has a name: **PROCRASTINATION**.

I'm happy to say that most of my transcripts aren't like this. And I know more pages means more money, but, I must admit, these long transcripts can be daunting. Especially when you have one of "those days." You know, the all-day depo where everybody is angry and cutting each other off no matter how much you protest AND it's videotaped. The deadline is upon me. How do I get myself going on this?

The other night I sat on my bed with my laptop, p.j.'s on, my dogs by my side silently cheering me on, all ready to bang some pages. TV is on, of course, because it's American Idol night and though I'm not crazy about the show what will I have to talk about tomorrow if I don't watch?

Next thing I know I'm channel surfing, checking email, Google'ing the weather where my parents live, where my cousin lives, checking my bank balance, looking for a good chicken recipe. Dang, it's 11:00 p.m.! I'd better hit the sack, get some good rest, get up tomorrow and hit the ground running...

I get up at 7:00, turn computer on (it needs to warm up, like a car.) Get dressed. Feed dogs. I'm hungry. Breakfast is the most important meal. Read paper. It's 8:30. Phone rings. It's the neighbor. Do I want to go for a walk? Well, exercise is important, too, so I'd better. Come back, check email. Now, I'm ready. But I might as well start a load of laundry, that's not hard. And those dishes in the sink really need to go. Man, it's lunch. I eat and I'm sleepy. A little catnap. Need to go to post office, bank, store. Crap, is that my husband pulling in? That means it's after 5:00. Where did my day go? Uh, how many pages are done???

Through the years I've come up with a few coping mechanisms to get through these times. Here's a few of my methods. Walking away for the moment. When I feel totally overwhelmed I freeze sometimes. Doing something else temporarily and coming back later in a better frame of mind helps.

**Get some air.** Sometimes the mere act of going outside and taking a couple of deep breaths, feeling the sun on my head helps my outlook. It's raining? Get a little wet. Snow? Plunge your face in a bank of it. Just get out and get some oxygen.

**Rest.** Take a quick nap. No time for nap? Close your eyes for five, ten minutes, clear your mind. Take a mental time-out.

**Exercise.** This one has become really important to me. I make time for this, and I think it has made a difference. I have more stamina for those long days and have a better attitude all around.

**File games.** I started this little game back when 5 1/4 floppies were around and each file contained so-many pages. I would tell myself, "You cannot get up from this computer until you complete five files." It's like baby steps. I do the same now with pages and set mini goals, like, "When you do 25 pages, then you can go for a walk. Another 25, return a phone call," et cetera. Slowly chipping away at the beast.

**Be nicer to you!** Sometimes we're our own worst enemy. Berating yourself is not going to get the job done any quicker. Try a little gentle self-talk, as in, "I've been here before and got through it. This is no different. I will get it done!" After all, we're professionals, right? I know it. You know it. Now, go forth and slay your monster!



*Be nicer to you! Sometimes we're our own worst enemy. Berating yourself is not going to get the job done any quicker.*

### NCRA'S Legislative Boot Camp – A WHOLE NEW HILL

*By Sheri Turner, V.P. Freelance, Depo Advisory Chair*

I had been warned that boot camp was a grueling ordeal, so why would anyone in his/her right mind actually volunteer to attend? Because I had been promised it would be one of the best and most exhilarating experiences of my life, and it was. Images of wearing fatigues and crawling through muddy trenches were replaced by the reality of business suits and never-comfortable heels trudging back and forth from office to office on Capitol Hill as we lobbied Senate Bill 675, the Realtime Writer Training Act. The coup of the day was garnering support and sponsorship from one of the most unlikely sources, Congressman Doolittle.

In background, Senate Bill 675 is a federal authorization bill for \$100 million (\$20 million/year for five years) for the Realtime Writer Training Act. The money would go to competitive grants for the schools to teach realtime writing, for recruiting students, upgrading programs and equipment, etc., and for scholarships for realtime writing students. Did you know that Congress already has mandated that 100% of English broadcasting be captioned by January 1, 2006 (a date which has obviously come and gone already), and all Spanish broadcasting be captioned by 2010? Currently there are 24 Spanish captioners in the world and no Spanish captioning training programs in the United States. So how do we recruit and train all these realtime writers to provide these and other services? Through this Senate bill and its companion bill soon to be “dropped” in the House. This is the fifth Congressional session that NCRA has tried to get similar legislation passed, and hopes are high and chances are very good that it will pass this year.

In February Carolyn Dasher and I attended NCRA's boot camp as the delegates from CCRA. Being a legislative neophyte in comparison to many of our CCRA leaders, I was excited for what I would learn but still a bit anxious about my performance there. Boot camp consists of one long day of intense classes learning information and facts about the bill we were going to lobby and learning how to effectively present the legislation. We spent the first evening late into the night with our respective assigned

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groups planning our “coalition” and presentations. The second day our groups presented ten different times, to different individuals role-playing different types of people and attitudes we might encounter. The design was that we would be able to tailor each presentation to address anticipated objections and questions. That evening Carolyn and I spent together with Janice Scott of COCRA, who had arrived that day (being delayed by snowy airport closures) putting together our presentation and doing research to plan our strategy of attack, as we were the only “campers” from California and we had been given about 60 packets of information to distribute on the Hill.

Tuesday was Hill Day, and the buses picked us up early at the hotel for our long day of appointments on the Hill. Between the three of us we had scheduled appointments with Senator Boxer's office, Senator Feinstein's office, and each of our local Congressional representatives' offices. We got a ton of exercise briskly walking back and forth and back and forth between the House buildings and the Senate buildings for our appointments, no small feat as they are on opposite diagonals of the White House, with the Library of Congress and the Supreme Court buildings in between. In addition to our scheduled appointments, we were able to have sit-down meetings with five other legislative assistants, and we were able to drop off eight other informational packets with brief presentations.

The highlight of the long day was our appointment with Congressman Doolittle, whose district I live in, and his Legislative Director Evan Goitein. Out of the 250 appointments NCRA had scheduled that day, only four appointments were with the actual Congress member, and this was one, so NCRA sent their photographer over as well. It was a late appointment, at 5:00 pm, and Doolittle's office had requested a reschedule, which didn't work out, but he still insisted on meeting with me. After our research the night before, we were prepared for all the tough questions anticipated from one of the most fiscally conservative watchdog leaders of Congress. He was very kind and gracious during our meeting, asking many questions about reporting in general, about realtime writing, and about captioning.

*Continued on page 9*

## Boot Camp, continued

We highlighted the fact that this bill would be providing training for jobs for a mostly women-dominated profession and the accountability factors of the bill, things I knew would appeal to him. And I would say that our efforts yielded great success when he agreed to not only support the bill but to be an original co-sponsor on the House bill. Yeah! I feel we have a true advocate in Congressman Doolittle and I appreciate his genuine interest and support. Then his assistant reminded him that our meeting time was over and he was expected at a meeting with Governor Schwarzenegger, who was in town that night.

As we hurried off to the fundraiser for Congressman Kind, who is the sponsor of the House bill, we were utterly exhausted, physically and mentally, and absolutely elated at the success we had with all of our appointments that day. We felt empowered with all the knowledge and self-confidence we had gained during the camp and confident in our abilities to work hard representing you and all the reporters in our profession. Thank you, CCRA, for such a fantastic opportunity!

Your boot camp graduate, Private Sheri Turner 



## NCRA and CCRA – A Partnership Working for You

*By Sheri Turner, V.P. Freelance, Depo Advisory Chair*

While I was in Washington, D.C., for boot camp, I took advantage of the opportunity to attend the first day of the NCRA Board Meeting. I must say that I am grateful for all the work NCRA does for us on a national level, and all the work that CCRA does for us on a statewide level. Being aware of all the things that go on behind the scenes at CCRA taking care of issues that arise, mostly things that you as a member probably don't see or think about on a regular basis, then multiplying that work exponentially to cover a national organization of reporters and their issues, I have a new appreciation for NCRA and all the work that they do and the dedicated leaders that we have.

I was grateful to meet at boot camp many delightful leaders from other states, all intelligent, competent, and as passionate about reporting as we are. I am grateful that CCRA has been here for 100 years promoting and protecting our profession in the great state of California, as I realize that many states struggle with such basic issues of the profession as licensing of their reporters.

And I think you should know that CCRA is viewed by others in the nation as being on the forefront of the reporting industry, and other states' organizations look to us for guidance and support.

Membership in our professional organizations can seem like a big expense, but our membership dollars are such a good bargain for all the work that is accomplished both by NCRA and by CCRA. We appreciate your membership and if you know reporters who are not CCRA members, please encourage them to join. And if you ever want to see what goes on behind the scenes in one of these organizations, please feel free to attend a board meeting. I received a very gracious letter from Reesa Parker, President of NCRA, thanking me for my attendance and encouraging any member who has an interest to attend an NCRA board meeting. We feel the same way here at CCRA. And thanks to all of you and to CCRA for helping me have such a rewarding profession.



# Northern California Court Reporters Association

## PANEL DISCUSSION

*By Sandy Bunch VanderPol*

NCCRA President Debra Codiga, freelance firm owner in Sacramento, along with her NCCRA officers, recently invited the three association presidents, along with David Brown, Court Reporter Board's Executive Director, to participate in a panel discussion of the industry's current issues. This seminar was held on February 1<sup>st</sup> in Sacramento. In attendance were freelance and official reporters, along with students and teachers from the local court reporting school, Argonaut School of Court Reporting. Also in attendance was CCRA's lobbyist, Lisa Kaplan.

After introductions and a short opening statement by CCRA President Sandy Bunch VanderPol, DRA President Holly Moose and COCRA President Kelly McCarthy, questions from the reporters in attendance were asked. The questions ranged from reactions to the recent purchase of Engate patents by LiveNote to formatting of both deposition and court transcripts. Other topics of discussion included the implementation of the Court Reporters Board strategic plan and the CRB's recently-passed Code of Professional Conduct. CCRA's lobbyist, Lisa Kaplan, also updated us on AB 1211 (Price), legislation sponsored by both CCRA and DRA. This bill will amend the CCP Section 2025 to include that attorneys are responsible for the payment of the deposition reporter's products and services.

Of note, NCCRA is one of only two active local freelance associations remaining in the state. NCCRA's members consist of freelance and official reporters. The freelance members of the association can be members of CCRA and/or DRA and/or COCRA.

**CCRA wishes to thank the NCCRA officers for their dedication to the profession and for providing important educational seminars to its members in a local setting.**



## CCRA Needs a Few More Great Leaders to Come Forward!

Each year, half of the positions on the Board of Directors of CCRA expire. Nominations are accepted each spring to fill these vacant positions. May 15th is the deadline for nominations for the 2007-08 CCRA Board of Directors.

Do you know of someone that you think needs to be part of the leadership protecting your profession? Have your life circumstances changed and you now find a little extra time to give back to the profession that's been so good to you?

*Please nominate yourself or a respected colleague – but don't delay. The deadline will soon be here.*

**Go to [www.cal-ccra.org/boardnominations.htm](http://www.cal-ccra.org/boardnominations.htm) for the nomination form.**

## School And Student News

### COURT REPORTING SCHOOL EXPANSIONS

Because of increased interest and enrollment in court reporting programs throughout the state, two private schools expanded their facilities last fall.

Bryan College of Court Reporting opened a division of their school in Gold River, which is near Sacramento. John Ledesma is their president.

Sage College opened a division of their school in San Diego. Lauren Somma and Sharon Goupil are the Executive Directors. Additionally, Sage College now offers an online program coordinated by Diana Lewis.

***Below is their contact information:***

#### **BRYAN COLLEGE OF COURT REPORTING**

2317 Gold Meadow Way  
Gold River, CA 95670  
(866) 649-2400, John Ledesma, President  
[www.bryancollege.edu](http://www.bryancollege.edu)  
[jledesma@bryancollege.edu](mailto:jledesma@bryancollege.edu)

#### **SAGE COLLEGE – SAN DIEGO**

2820 Camino Del Rio South, Suite 100  
San Diego, CA 92108-3821,  
619-683-2727, Lauren Somma, Executive Director  
[www.sagecollege.edu](http://www.sagecollege.edu)  
[Lsomma@sagecollege.edu](mailto:Lsomma@sagecollege.edu)

### ATTENTION ALL STUDENTS:

**DEADLINE:** Applications and Essays for the Student Scholarship Award are due March 31, 2007. Please download an application from our website, [www.cal-ccra.org](http://www.cal-ccra.org), and have it filled out and approved by your program director. Also please remember to have your essay approved by your English instructor before submitting. Good luck to all Applicants.



## Realtime Troubleshooting Alert

*By Sandy Bunch VanderPol*

Earlier this week I had an e-mail from a colleague of mine regarding a situation that I had not come across in my years of troubleshooting realtime reporting. So as to not have you realtime reporters experience the same dilemma as this reporter, I thought an alert on this situation would be appropriate.

With the recent update of the Case Catalyst CAT software to V8 and in connecting to Summation realtime receive software, there is a baud rate issue that may need to be addressed by you, should your output to counsel be gibberish. Of course, after checking the baud rates on your send software and the attorney receive software, making sure they are 2400 baud rate, the next step is to check the baud rate in the device manager of Windows on both your computer and counsel's.

**How do you go about this? It's simple. Here are the step-by-step instructions.**

Somehow get to the Control Panel of your computer. I have Windows XP operating software, and I click on "Start" then "Control Panel." You may also right click on "My Computer" and go from there. Once in Control Panel, click on "Performance and Maintenance," then "System." At this point you are within "System Properties. Click on the "Hardware" tab, then on the "Device Manager" tab.

Once in Device Manager, you have a list of devices associated with your computer. Find your "Ports (COMM and LPT)." Then click on the box to the left that has the "+" sign. There it will list your comm port devices. Find the one that is outputting your realtime. Double click on that device. Click on the "Port Settings" and change the "Bits Per Second" to 2400. Repeat these steps on counsel's computer. You should be good to go!



### AB 1211 (Price)

#### **Timely Payment of Reasonable Court Reporter Fees**

Co-Sponsored by: California Court Reporters Association (CCRA) and Deposition Reporters Association (DRA)

**ISSUE:** Who should be legally responsible for paying the agreed-upon deposition reporter's fees after the deposition has taken place, when the attorney in fact ordered those services?

**BACKGROUND:** Freelance deposition reporting professionals all too often have a difficult time collecting from the attorneys who have ordered their services and instructed them when and where to show up. After services have been provided at a deposition – and the transcript even used in court by the attorneys who ordered them – some attorneys will nevertheless deny any responsibility to pay the professional, arguing that payment was really his client's responsibility all along.

Of course, reporters almost never talk to or meet a lawyer's client, let alone receive deposition orders from them. As well, clients in many cases are themselves injured, impoverished, and unable to pay. Many deposition reporters are women and part-time independent contractors. The failure to get paid, delay in payment, and the cost of collection can pose a unique burden on them.

According to recent statistics, approximately 30 percent of the time court reporters are paid more than 90 days after submitting the bill and sometimes up to two years late. Some bills are not paid at all. The legal profession should insist that court reporters are paid in a timely fashion to maintain the integrity of the legal profession and to foster basic fairness.

Nationally, the current trend of court decision and state legislation is to treat the attorney as a principal who is legally responsible for court reporter fees because of his or her education, experience and professionalism. This puts the lawyer in charge of the litigation.

In the following jurisdictions, including Arkansas, Indiana, Massachusetts, Ohio, Washington and New York, the attorney ordering goods or services for the client will also be personally responsible for those expenses, absent an express disclaimer of

responsibility. AB 1211 sets in statute this standard.

**CURRENT LAW:** In an advisory Formal Opinion, the State Bar of California has already found that attorneys who engage in such conduct potentially expose themselves to disciplinary actions. But, that does not help the independent contractor deposition-reporting professional, who – a non-lawyer – must rely on small claims actions to obtain payment – where her opponents are lawyers. Furthermore, the current statute is unclear as to who is responsible for court reporter fees when an attorney hires the court reporter.

Therefore, what is required to permit the deposition reporting professional a fair chance at small claims collections is unambiguous statutory language codifying that an attorney is responsible for paying for the transcript that he orders, and that is what AB 1211 does.

**AB 1211 (Price) LEGISLATIVE PROPOSAL:**  
**The proposal simply asks attorneys who order services to be responsible for paying for what they order:**

“The costs of all services or products provided by the deposition officer or entity providing the services of the deposition officer, which are ordered or requested, either orally or in writing, by a party's attorney, a deponent's attorney, or by a party appearing pro per, shall be the responsibility of such attorney or party pro per, except where payment is otherwise provided by law, or pursuant to an agreement between a deposition officer and a party's attorney, deponent's attorney, or by a party appearing pro per in writing at the time the product or service is ordered or requested.”

**WHO ARE DEPOSITION REPORTERS?** As of 2005, there were 7,835 certified shorthand reporters and thousands of small business owners who are an integral part of the California justice system, both civil and criminal. Reporters are unique, as are all industries, but the nature of their work affects such basic constitutional rights as due process.

As the Legislature's Joint Committee on Boards, Commissions, and Consumer protection explained in its 2005 Sunset Review Paper for the Court

*Continued on page 13*

## Legislative Update, continued

Reporters Board:

“An accurate written record of who said what in court [or in depositions] is essential if the outcome of [a] judicial proceeding is to be accepted by the litigants and the public as nonarbitrary, fair, and credible. In civil cases, millions of dollars, life-long careers, and the fate of whole business enterprises can hinge on what was said or what was not said in a deposition[.]”

### IN THEIR OWN WORDS: Two Anecdotal Stories From Court Reporters

One instance in particular I remember was, an attorney who took a deposition on a holiday and then didn't pay the bill thereafter. The explanation I was given was that his client stiffed him, so he wasn't paying. Period. We issued the standard series of collection letters and then filed small claims against him. I was awarded a judgment in full, which he promptly appealed. At the hearing for the appeal he made the same argument, that because his client hadn't paid him, he was under no obligation to pay me.

The judge ruled in my favor on the spot at the appeal hearing, which caused the debtor to go ballistic, verbally attacking the judge like nothing I've ever seen, saying the judge obviously wasn't basing her

ruling on the facts of the case, since they were clearly in his (the debtor's) favor; that she obviously wasn't basing her ruling on the law, since he didn't think the Massachusetts case was applicable and he himself had been unable to find any California law to support my position. He did pay the judgment.

\* \* \*

In [a] case with a Sacramento attorney, he refused to pay his court reporter bill for the same reason, that his client had gone belly up and he didn't get paid, so the attorney felt no obligation to pay me. As an alternative argument, he said he never ordered a transcript of the deposition in question. ... Fortunately, the attorney's order for the transcript had been captured on the record, but he testified that what he was saying he wanted a copy of was an exhibit that had been marked a few pages before the conclusion of the deposition, not the deposition transcript itself. The judge chastised him for making such an argument and entered judgment in my favor. This attorney didn't bother to appeal, but when he sent his payment to satisfy the judgment he included a cover letter that I've saved to this day and love to reread on occasion:

*“Enclosed find my check for \$125.38. You have just made an enemy for life and I will do everything”*



## The Reporting Yogi

Wouldn't it be nice to live in a rain forest with waterfalls and beautiful green plants and flowers all around? Or maybe your idea of bliss is the warm sun and a margarita. No matter what your dream world is, we are all living in the world we've chosen. If you wake up and feel overwhelmed or fed up, you need to look at how you've created your world. They say if you're not happy with your surroundings, look back six months and see how you helped create it.

We all have moments where the stress of our jobs or demands in our private life are about to push us over the edge. But it's never too late to create a happier tomorrow!! Whether you exercise to find peace or play an instrument, it is important to have an outlet for your stress. Writing in journals or even talking to yourself in

the shower will help you to blow off steam and alleviate stress. Communicating with those around us (mates or workmates) help us to understand each other better and allow us to give each other support. Sometimes just knowing someone else understands makes it better.

When someone else is having a bad day, remember, it's not about you. We all have challenging times. When you're having a good day, maybe you could help someone who's not. You will feel good about yourself by helping another and you will help that person find some happiness in an otherwise difficult day.

**We are all on this planet together.  
Let's make it a happy one for us because  
it affects everyone we meet!**



# CCRA and COCRA Advise on AB 582 (EVANS) Language

CCRA and COCRA have supported SEIU in drafting the language that will be amended into AB 582, which is being carried by Assemblywoman Noreen Evans, a long-time supporter of court reporters and a past friend of CCRA, having to do with a folio rate increase for official reporters in California. The final language that is being introduced is included below.

Please watch for more updates from CCRA as the bill progresses through the Legislature. As we get closer to the time that you will be asked to write letters in support of AB 582, we will notify you of the timelines for your help.

## BILL LANGUAGE

### AB 582 (Evans) • March 15, 2007

#### Service Employees International Union

#### SECTION 1. The Legislature finds and declares the following:

*(a) Official court reporters and court reporters pro tempore employed by the courts are currently paid under a dual payment structure in which the base salary of the court reporter is supplemented by income from preparing required transcripts and providing other required transcription services.*

*(b) The dual compensation structure protects the state from bearing the full cost of transcript preparation and the provision of other transcription services with the attendant consequences of overtime liability.*

*(c) The fees for original transcripts prepared by official court reporters and court reporters pro tempore have not been adjusted in 16 years; while fees for copies purchased at the same time as the original have only been increased once in 103 years.*

*(d) In order to ensure full and fair compensation of official court reporters and court reporters pro tempore employed by the court, and in order to attract and retain official court reporters and court reporters pro tempore employed by the courts, of sufficient skill and competence to serve the needs of the justice system, it is imperative that the system of dual compensation provide for sufficient payment of transcription services.*

*(e) Therefore, it is necessary to revise the fees for transcripts prepared by official court reporters and court reporters pro tempore accordingly.*

#### SEC. 2. Section 69950 of the Government Code is amended to read:

*transcript prepared by an official reporter or official reporter pro tempore employed by a court shall be subject to the following fees:*

~~(a)(1) Beginning January 1, 2008, the fee for transcription for the original ribbon or printed copy is eighty-five cents (\$0.85) shall be ninety-eight (\$0.98) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original is, fifteen cents (\$0.15) shall be seventeen cents (\$0.17) for each 100 words.~~

**(2) Beginning January 1, 2009, the fee for transcription for the original printed copy shall be increased from ninety-eight cents (\$0.98) to one dollar and thirteen cents (\$1.13), and for each copy purchased at the same time by the court, party or other person purchasing the original shall be increased from seventeen cents (\$0.17) to twenty cents (\$0.20).**

**(3) Beginning January 1, 2010, the fee for transcription for the original printed copy shall be increased from one dollar and thirteen cents (\$1.13) to one dollar and twenty-four cents (\$1.24), and for each copy purchased at the same time by the court, party or other person purchasing the original shall be increased from twenty cents (\$0.20) to twenty-two cents (\$0.22).**

~~(b)(1) Beginning January 1, 2008, the fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty cents (\$0.20) twenty-three cents (\$0.23) for each 100 words, and for each additional copy, purchased at the same time, seventeen cents (\$0.17) fifteen cents (\$0.15) for each 100 words.~~

**(2) Beginning January 1, 2009, the fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be increased from twenty-three (\$0.23) to twenty-six cents (\$0.26) for each 100 words, and for each additional copy, purchased at the same time, from seventeen cents (\$0.17) to twenty cents (\$0.20) for each 100 words.**

**(3) Beginning January 1, 2010, the fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be increased from twenty-six cents (\$0.26) to twenty-nine cents (\$0.29) for each 100 words, and for each additional copy, purchased at the same time, from twenty cents (\$0.20) to twenty-two cents (\$0.22).**

*(c) Beginning January 1, 2011, and each year thereafter a cost of living adjustment (COLA) shall be applied to all fees contained in this section based on the Consumer Price Index.*

#### SEC 3. Section 69951 of the Government Code is amended to read:

For transcript, in civil cases, the reporter may charge **The fee for transcription is an additional** an additional 50 percent for special daily copy service.

# NEW! Mandatory Court Employee Education

## Effective January 1, 2007

*By Lesia J. Mervin, VP Officials*

***Did you know there's a new California Rule of Court that makes it mandatory for all court employees, including court reporters, to complete eight hours of continuing education every two years?***

To meet that continuing education requirement, save the date of October 6 – 8 and plan to attend CCRA's annual convention. Check with your court's management for the guidelines they may have established for this process.

## 2007 California Rules of Court

### **Rule 10.464. Trial court managers, supervisors, and personnel**

#### **(a) Applicability**

**All California trial court managers, supervisors, and personnel must complete these minimum education requirements.**

#### **(c) Hours-based requirements**

- (2) Each court employee who is not a manager or supervisor must complete 8 hours of continuing education every two years, with the exception of employees who do not provide court administrative or operational services.....
- (3) The first two-year period for all court managers, supervisors, and personnel begins on January 1, 2007.
- (4) Any education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory, rules-based, or other education requirement, that is

approved by the executive officer or the employee's supervisor as meeting the criteria listed in rule 10.471(b) applies toward the orientation education required under (b) and the continuing education required under (c)(1) and (2).

### **Rule 10.471. Approved course criteria**

#### **b) Approved education criteria**

Education is not limited to the approved providers listed in (a). Any education from a provider not listed in (a) that is approved by the presiding judge as meeting the criteria listed below may be applied toward the continuing education expectations and requirements for judges and subordinate judicial officers or requirements for court executive officers stated in rule 10.462(d) or 10.463(c), respectively. Similarly, any education from a provider not listed in (a) that is approved by the court executive officer or by the employee's supervisor as meeting the criteria listed below may be applied toward the orientation or continuing education requirements for managers, supervisors, and employees in rule 10.464(b) and (c)(1), (2).

- (1) The education must meet the following three criteria:
  - (A) The subject matter is relevant to the work of the courts or the judicial branch;
  - (B) The education is at least one hour in length; and
  - (C) Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied, demonstrated, or used) are identified prior to the education work.

*Continued on page 16*

## NEW! Mandatory Court Employee Education, continued

(2) The education must also meet at least two of the following five criteria:

(A) The learning environment is educationally sound (e.g., distractions are limited and the physical location is conducive to learning the subject matter);

(B) The participant receives or has access to all the reference tools and other materials and resources (such as handouts) that are required for learning and applying the content (such as job aids or scripts);

(C) The participant has an opportunity to practice using or applying the new information or skill (through direct experience, role play, or case studies/hypothetical situations) as part of the learning experience;

(D) The participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;

(E) An assessment tool or activity (such as the development of an action plan to apply the newly gained knowledge or skill) enables the participant to determine whether the skills, abilities, or knowledge gained through the education can be used in the future in his or her work.



## SAVE THE DATE!

**With the 2007 convention about seven months away, preparations are underway!**

**October 6-8, 2007 at the Los Angeles Marriott Downtown.**

We're hoping to have a fun and informative convention once again this year! The dates are October 6<sup>th</sup> through 8<sup>th</sup>. In the past, the Friday start date has been hard for officials up and down the State. So this year, we're having our convention Saturday through Monday to allow more officials to attend!

We all know how demanding our jobs are and how precious our time is! We hope after attending the convention you'll know more technologically to help you be more productive in your work life and more peaceful in your private life!

**Attending conventions and seminars with other Reporters is more than informative.**

It can be a lot of fun! It's so important in our daily lives to bring some laughter and enjoyment in! What could be more fun and rewarding than learning more about your CAT software with your friends? Then you have a network of people to call if you are stuck and need some help! It's so important in our profession to have other people who "understand" the pressures and concerns we have. By fraternizing with one another, it builds friendships as well as a strong work network.

Encourage one another to attend so you can get your CEUs and have fun at the same time!



# California Courts Case Management System (CCMS)

*Carlos Martinez*

The Judicial Council of California has implemented the CCMS pilot project in 12 select counties in the state. The stated goal of the project is: *“In a statewide data distribution network, a single file, entered once, will be immediately available to an unlimited number of users. No intermediaries will be needed to retrieve requested documents. Sophisticated scheduling and case management applications will be available on line. Documents will be retrieved instantaneously at trial and displayed on monitors to all participants. On appeal, both clerk’ and reporter’ transcripts will be immediately available to the appellate tribunal.”*

*“The network will be a clearinghouse for judges, court information managers, attorneys, clients, and the public. Every California court will have access to and share information through the network. It will contain scanned images of filed paper documents, electronically filed documents, and the courts’ case management system. Once authorized, any user will be able to access and retrieve information or enter data, although clearance will be required to enter data.”*

The JC in their winter edition of the “California Court Review” ran an extensive article citing the pioneers of the CCMS and the benefits. Their goal is to at some point in the future go completely paperless in the court system. Whether or not this is feasible and workable is still to be determined, but they are moving in that

direction. To that end, court reporters will be expected, as has been rumored for some time now, to upload their transcripts in electronic format to a central repository that will be accessible to whoever pays their fee for access on the CCMS system.

While some may believe this is cause for panic, I do not. Just as real time has become a reporting industry standard and web streaming is now an Internet staple and the cell phone is now more commonplace than the Chevy, we need to learn to adapt and to make this work towards our benefit. Once this is implemented, be it now or ten years from now, no longer will it be necessary for us to print 15,000 pages and bind 500 transcripts for a death penalty appeal. We will edit, proof, upload and probably send a CD to the appellate department. As long as we are compensated for our work in a fair and equitable amount, this appears to be an easier way to work within the system.

If you would like to view the entire article written by the JC, the link is included below.

<http://www.courtinfo.ca.gov/reference/ccr.htm>

The thoughts and points of view expressed by the author in this article are not necessarily those adopted by the Board of CCRA.



## THE USE OF ELLIPSES TO SHOW TRAILING OFF

*By Marjorie Wakeman-Wells*

The use of ellipses to show trailing off has gained favor in many segments of the court reporting community. Many reporters express a desire to distinguish between a speaker who trails off and a speaker who is interrupted.

The dash in English shows broken sentence structure. It does not matter how the structure gets broken. It simply shows that a sentence did not get finished. Its use is not restricted to just an interruption.

Though in English ellipses are generally reserved for indicating that something has been left out that was included in the original, usually used inside of quotes, their use showing trailing off is supported by *Merriam-Webster’s Eleventh* by the following: “mark or marks indicating an omission or a pause.”

There was a recent case in court, reported by a local court reporter, in which the judge admonished an attorney for the number of times he interrupted the witness during a prior deposition in the case. This would certainly give justification for making a distinction between being interrupted and trailing off.

Other options for trailing off – such as a dash followed by a period, a dash with the space in front of it omitted, et cetera – are to be avoided.

- ; Well, I intended to – .
- ; Well, I intended to–



## CAT NIPS

*By Lesia J. Mervin, CSR, RMR, CRR; CCRA – VP officials, present elect; Technology Committee Chair*

In an effort to inform our members of new and upcoming technologies and to educate our members on existing technologies, the Technology Committee has asked the various CAT vendors to participate in highlighting new features of their software and offer any tips to better educate us in the use of new or existing features.

Below is the third of several installments to be featured.

### April's Eclipse Tip: Word Buffer for Realtime

*By Steven Kosmata, San Diego Superior Court  
President of San Diego Eclipse Users' Group*

If you happen to be one of those amazing writers who writes with zero errors every time, this Eclipse Tip is not for you. Stop here. Wait for next month's tip. But should you find yourself misstroking a word or dragging that extra key while outputting to 25 attorneys and your judge, there is an easy solution.

Open your Eclipse, Alt-U to your User Settings, go to the "realtime" tab. Down in the lower left is a heading called "Edit word buffer". This word buffer creates a buffer between what you see on your laptop and before it's outputted to your attorneys and/or judge. This is what happens. I have my buffer set at five. As you type, a transparent light-gray bar will appear on the last five words that I've typed. Should I find an error, I can simply backup and retype before the gray bar moves off of my error and is outputted to everyone in the room.

Now, the other half of this equation is you will need a stroke to "Flush" out all the words in your gray bar should there be an objection or someone wants to see the ending of what you've written to a question or answer.

To Flush out all of your words in the gray bar, with your Eclipse open, hit CTRL + D (your steno machine keys appear). Create any stroke(s) you wish for your "Flush" stroke. Push okay on your computer. Now type in exactly

{FLUSH} (ALL IN CAPS). And there you go!

It's a great little tool to have for your toolbox arsenal of Realtime reporting!

Please email me if you have any questions or topics you would like to discuss in our CCRA magazine, or perhaps drop by one of our monthly meetings in San Diego. They are free to all who would like to come.



## CCRA's Legislative Agenda Needs your Support!

**Help us with your contribution to the CCRA Political Action Committee.**

Donation for the POLITICAL ACTION CALIFORNIA COURT REPORTERS ASSOCIATION

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## CCRA ACCOMPLISHMENTS:

### YOUR REASON TO MAINTAIN YOUR MEMBERSHIP

#### California Court Reporters Association Mission Statement:

*The mission of the California Court Reporters Association is to advance the profession of verbatim shorthand reporting by promoting professional reporting excellence through education, research, and the use of state-of-the-art technology; establishing and maintaining professional standards of practice; and advocating before legislative and regulatory bodies on issues which impact the judicial system and others served by the court reporting profession of California.*

#### LEGISLATIVE ACTIVITIES:

- 2006 – AB 1293 (Oropeza) Successfully passed this legislation which expands the definition of indigent litigant as it applies to the qualification of same for transcript funding from the Transcript Reimbursement Fund.
- 2006 – SB 1476 (Figueroa) Successfully amended the language to extend the life of the Court Reporters Board to 1/1/2010, making its sunseting consistent with the Transcript Reimbursement Fund's sunseting.
- 2006 – SB 56 (Dunn) Monitored this bill and worked with its author to insure that the appointment of 56 new judgeships would include adequate funding for courtroom staff, including court reporters.
- 2005 – AB 1293 (Oropeza) Introduced language that would protect the privacy of the transcript by encryption, password protection and electronic signature of the deposition transcript sent over the Internet to the deponent for reading, correcting and signing. This was the first step toward protecting our deposition transcript copies in this digital and electronic age, in addition to protecting the integrity of the transcript in the paperless environment.
- 2005 – AB 185 (Huff) Supported legislation regarding the Legislative Captioning Act of 2005, which would provide the Joint Rules Committee would provide closed-captioned and live-captioned broadcasts of a joint committee hearing.
- 2005 – AB 1174 (Tran) Opposed and defeated this bill which would provide that administrative proceedings may be reported by electronic recording.
- 2005 – SB 229 (Figueroa) Supported successful legislation to extend the sunset date of the Court Reporters Board.
- 2001 – SB 801 (McPherson) Introduced legislation that would clarify that the audiosync file when used by a deposition officer was the exclusive property of the deposition reporter.

#### ADDITIONAL LEGISLATIVE EFFORTS:

##### Introduction and passage of the following laws as affects court and deposition reporters:

- Anti-contracting legislation that required full disclosure of all products and services being provided by the deposition officer to all parties, attorneys and the party financing all or part of the litigation.
- Anti-contracting legislation that disallowed the service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition to any third party financing all or part of the action, party or party's attorney. In addition, no collection of identifying information about the witness as a service or product could be provided to same.
- Anti-contracting legislation that, upon request by any party or attorney attending a deposition, the other party or attorney shall enter in the record all services and products made available by the deposition reporter or firm to such party or party's attorney or any third party who is financing all or part of the action.
- Legislation that provides when a transcript is prepared as a rough draft transcript in a deposition, that rough draft may not be used or cited or transcribed as the certified transcript of the deposition, nor can it be used to rebut or contradict the certified transcript of the deposition proceedings.
- Legislation providing that the rough draft transcript prepared by the official court reporter shall not be certified and cannot be used, cited or transcribed as the official certified transcript of the proceedings, nor can it be used to rebut or contradict the official certified transcript of proceedings.

*Continued on page 20*

## CCRA ACCOMPLISHMENTS, continued

- Legislation that provides that being a Notary Public is no longer necessary to swear in the deponent; a licensed CSR can swear in the deponent.
- Transcript Reimbursement Fund was established to provide accessibility of the indigent litigant to court and deposition transcripts.
- Legislation providing additional fees for one-person dailies.
- Legislation for additional fees for transcripts on disks.
- Legislation of official transcript copy rates.
- Legislation to exempt transcribers from being classified as employees by the EDD, Employment Development Department.
- Legislation to create the Court Reporters Board of California, your licensing agency.
- Legislative requirement that original transcript must be on paper.
- De-legislation of freelance court reporter rates set per folio by legislation.
- Preparation of many reports supporting the use of court reporters' opposition to Electronic Recording.
- Sponsored legislation and prepared data in support of increasing folio rates.
- Sponsored legislation to allow retention of stenographic notes in electronic format.
- Sponsored legislation to close the loophole that allowed non-CSR's to report the official record.
- In 1996 successfully opposed legislation that would allow for the use of Electronic Reporting in depositions without a stipulation by counsel.

### PROTECTING THE PROFESSION:

- CCRA has a full-time lobbyist introducing and tracking legislation affecting the profession.
- CCRA's lobbyist is the only lobbyist working for both official and freelance reporters.
- CCRA has defeated every legislative bill introduced to replace reporters with E.R.

- CCRA has a legislative advisor also tracking legislation affecting the profession.
- CCRA has a Judicial Procedures Committee tracking changes in the Rules of Court and other issues as relates to court reporters.
- CCRA has a Deposition Advisory Committee, advising its board on current issues affecting the deposition reporter.
- CCRA has a Past Presidents Advisory Committee, a resource to the board and officers for historical perspectives on current issues and topics.
- CCRA representation on the Reporting of the Record Task Force.
- CCRA representation on the Uniform Civil Filing Fees Committee (Current).
- CCRA has an Action Team ready to respond to issues affecting the profession.
- CCRA can provide you negotiating tools and information for negotiating your next contract with your management.
- CCRA is the NCRA state affiliate association.
- CCRA board members and members alike have membership on NCRA committees.
- CCRA board members have served the profession at a national level – board members of the National Court Reporters Association.

### PROFESSIONAL EDUCATION:

- CCRA has a monthly Online educational publication e-mailed to its members.
- CCRA continues to offer its Annual Convention in October.
- 2006 - Developed an Online CCR Tips & Tricks Seminar.
- 2006 – CCRA held its Freelance Business Symposium.
- 2005 – Hired a consultant to investigate and address the E-Future as it pertains to deposition reporters.
- 2005 - CCRA, at its Annual Convention in Del Mar, presented its first E-Future seminar to deposition reporters and firm owners.

*Continued on page 21*

## CCRA ACCOMPLISHMENTS, continued

- 1995 – CCRA’s first Technology Summit – addressing the future of technology in our profession as it relates to both deposition and official reporters.
- 1992 – CCRA held the first ever Realtime Retreat.
- 2003 - Developed a Student Seminar Track at the annual convention.
- 2004 – Presented a Captioning track at its annual convention.

### **BENEFITS TO MEMBERS:**

- CCRA has a Legislative Council, consisting of a representative from each local association, to propose legislation to the CCRA board and officers.
- Annual Convention each October.
- Monthly Online Newsletter.
- Freelance Compendium, citing all applicable code sections.
- Official Compendium, citing all applicable codes and rules.
- Website, containing all information relating to the reporting profession.
- “Ask A Reporter” – an online link to a reporter to ask your pertinent questions.
- “Tell CCRA” – an online link to your board and officers to obtain information or pass on information.

- Speed Contest.
- Classified Ads online and in the monthly newsletter.
- Firm owner listings throughout the state.
- Weekly legislative updates online.
- CCRA Alerts – alerting you to issues.
- Important links – linking you from the Website to useful resources.
- Health Benefits.
- Low airfare on Hawaiian Airlines.
- CCRA Store.
- CCRA Visa-sponsored Credit Card.
- Career Day Kit.
- Pengad member benefit.

### **STUDENT MEMBER BENEFITS:**

- Each One – Reach One Mentoring Program.
- Student Scholarship Program - \$500 - \$1,000.
- Student Seminar Track at Annual Convention.
- Sponsor a Student Membership to CCRA.
- Sponsor a Student to Annual Convention.
- CCRA to School/teacher relations, donating paper and machines and compendiums.



## LiveNote Responds to NCRA Regarding Engate

In the wake of LiveNote's acquisition of Engate and its entire portfolio of realtime patents, NCRA formally requested responses to a number of questions regarding the company's plans. Although LiveNote's responses initially were provided on a confidential basis, LiveNote agreed that NCRA could share these responses with members as long as LiveNote's complete responses were provided to show their context. LiveNote's original client letter, LiveNote's FAQ, and NCRA's questions and LiveNote's responses therefore are being made available in their entirety.

\*\*\*\*\*

LiveNote, a Thomson business is proud to provide essential technology and services that support court reporting agencies, litigators and the courts. As with any technology company, we leverage our innovation and intellectual property to differentiate our offerings and deliver products that bring the greatest value to our clients.

Recently, we acquired the Engate patent portfolio, which includes hundreds of current and pending patent claims pertaining to court room and deposition technology. Our objectives in acquiring the Engate portfolio are to make LiveNote technology more broadly accessible, make the technology easier and more convenient for our customers, and mitigate legal uncertainty or administrative inconvenience.

In December 2006, the United States Court of Appeals for the Federal Circuit affirmed a lower court's 2005 ruling pertaining to a limited number of patent claims held by Engate. This affirmation of a prior ruling did not greatly impact the remaining portfolio or otherwise alter the intellectual property assets held by Thomson. Following the outcome of this appeal, LiveNote was requested to reply to a number of questions raised by the NCRA. Below are the answers to these questions.

### **1. What consideration is being given to refunding the token and license fees that were charged while the Engate litigation was pending and likewise eliminating token and licensing fees in the future based on the Engate patents?**

Tokens have always provided a license to the entire Engate portfolio of current and pending interactive realtime transcription patents,, not just the subset of claims that were invalidated.

Many LiveNote software users continue to use tokens as their method of compliance. Tokens never expire, and can be transferred from user to user as many times as desired.

Note that LiveNote's new software subscription model simply builds compliance into the software license for unlimited realtime usage during the subscription period., without requiring the use of tokens. As more and more law firm clients move toward this model, the use of tokens will decrease and realtime connections in LiveNote will become easier to support.

### **2. What specific patent claims that were not invalidated by the courts form the legal basis for past or future tokens and license fees and how are these remaining patent claims different than the key patent claims that were invalidated?**

Thomson does not comment on the validity or applicability of claims that have not been adjudicated. Although the Engate portfolio forms a foundation for the LiveNote licensing program., the Thomson portfolio contains many other patents applicable to legal technologies

### **3. Speaking more generally how would you like firm owners to understand the purpose, intended benefits, and likely outcomes from LiveNote's acquisition of Engate given the outcome of the litigation?**

Our objectives in acquiring the Engate portfolio are to make realtime technology more broadly accessible, make the technology easier and more convenient for our customers, and mitigate legal uncertainty or administrative inconvenience. As a result of this acquisition, compliance with the Engate patents can now be built into LiveNote's software model eliminating the need to use tokens to achieve compliance. This change dramatically simplifies the use of our industry standard realtime transcription software.

### **4. How would you like individual deposition reporters to understand the purpose, intended benefits and likely outcomes from LiveNote's acquisition of Engate given the outcome of the litigation?**

As noted above, we believe this simplified realtime licensing model, combined with the vast resources of Thomson West, should lead to a significant increase in the demand for quality realtime writers. We encourage more reporters to hone their skills and commence providing realtime services to fully capitalize on this opportunity.

*Continued on page 23*

## LIVE NOTES RESPONSES, continued

**5. LiveNote's purchase of the Engate realtime patent portfolio apparently demonstrates the company's belief that the portfolio contains valid and enforceable intellectual property rights that will inure to the benefit of the company and its product line. How will the company be attempting to enforce such rights against individual deposition reporters, firm owners and customers that may not choose to pay for tokens or license fees based on the Engate patents?**

Thomson does not comment on its enforcement strategy. LiveNote's new software subscription model simply builds compliance into the software license, without requiring the use of tokens. This simple model does not require tokens and eliminates the risk of non-compliance for reporters supporting LiveNote products. We have not licensed our intellectual property to any other realtime software provider. Like any technology company, LiveNote reserves the right to protect its intellectual property against infringement by any third parties.

**6. What obligations do you feel reporters face in order to avoid challenge or enforcement action by LiveNote if, at a deposition, a client asks for a realtime connection, but declines to pay for tokens or a license fee based on the Engate patents?**

To be fully compliant with LiveNote's intellectual property, all realtime connections are required to be licensed. Reporters can ensure their compliance by purchasing licenses for non-compliant connections at [www.livenote.com](http://www.livenote.com).

**7. What does LiveNote believe firm owners must do to ensure that the provision of realtime services by its reporters (employees and independent contractors) will not trigger patent enforcement actions by LiveNote?**

Please see the answers to questions 5 and 6.

**8. What does LiveNote believe individual realtime reporters must do to ensure that their provision of realtime services will not trigger patent enforcement actions by LiveNote?**

Please see the answers to questions 5 and 6.

**9. Does LiveNote believe that any other existing software packages or reporting practices may violate the Engate patents and, if so, how does LiveNote intend to enforce its rights?**

Thomson does not comment on its enforcement strategy. As stated above, we reserve the right to protect our intellectual property assets against infringement by any third party. We are open to licensing our technology directly to other software providers, but have not entered into any such arrangements to date. LiveNote remains committed to continued technological innovation and investment to the benefit of our clients and business partners.



## CONSERVATIVE?

**Q. So when you're doing the frequency table to say how rare this DNA profile is, you're actually doing it in a conservative manner? You're not counting everything you saw?**

A. I just hate that word, "conservative."

**Q. I'm sure you do. You went to Berkeley.**

A. I know. I've spent all my adult life – I got to Berkeley at the age of 18 and I didn't leave the place for 15 years. I just hate the use of that word, "conservative."

**Q. Okay. Find another word.**

A. What do you really mean by that?

**THE COURT:** Try to overcome your prejudice.

**THE WITNESS:** I will, judge. And I hope this transcript doesn't get out of the Bay Area. But, "cautious." Isn't "cautious" a better word than "conservative"?

**THE COURT:** I think they're synonymous.

**THE WITNESS:** Well, I don't know, judge.



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Cell phone experts seem to be on the rise in criminal trials. My last two special circumstance trials hinged on the testimony of a cell phone expert. Many of the words or companies were not in my dictionary, so I thought I would share them with you so you will be better prepared than I was.

Antenna	TAEPB or TA*EPB	MTSO	STOM	I would suggest that you enter the following companies into your dictionary for clear realtime translation.  <b>Cell phone manufacturers and companies:</b> AB-tech ACT Telecommunications Air Touch AT&T CPD Wireless Cingular Cellular One ConTel Cricket Ericsson Fujitsu GTE Motorola Nextel Nokia
Antennas	TAEPBS or TA*EPBS	Mobile Telephone		
Cell	KREL	Switching Office	STOM/STOM	
Cell phone	KR-F or SLOEPB or KR-P	Pinged	PIPBGD	
Cell phones	KR-FS or SLOEPBZ or KR-PS	Pings	PIPBGS	
Cell phone tower	KR-FT or SLOENT or KR-PT	Pinging	PIPBG/G	
Cell phone towers	KR-FTS or SLOENTS or KR-PTS	Sector	STEBG	
Cell tower	KR-T or KRELT	Sectorized	STEBGD	
Cell towers	KR-TS or KRELTS	Sectorization	STEBGS	
Cellular	SHRER	SIM Card	SKARD	
Cellular call	SHRAUL	Telecommunications	TKPH-GSZ	
Cellular phone	SHRERP	Text message	TPHEFP	
Communication	KPH-GS	Text messaging	TPHEFPG	
Destination	STPHAIGS	Tower	T*OUR	
FM frequency band	TPWAPBD	Towers	T*OURS	
iPod	PEUD	Triangulate	TRINGT	
iTunes	PAOUPBS	Triangulates	TRINGTS	
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**Cell phone languages:**  
CDMA  
GSM platform

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