

**OFFICIAL PUBLICATION OF THE FLORIDA COURT REPORTERS ASSOCIATION** 

AUGUST/SEPTEMBER/OCTOBER 2010



## 2010 ANNUAL CONVENTION

OCTOBER 8-10, 2010 • TRADEWINDS ISLAND RESORTS • ST. PETE BEACH, FLORIDA



Janet McKinney, FCRA 2009/2010 Secretary/Treasurer Sandi Estevez, FCRA 2009/2010 Director at Large Jennifer Gaul, FCRA 2009/2010 Immediate Past President

U.S. Legal Support is dedicated to the professional development of its court reporters and staff through its support of FCRA and the Florida Professional Reporter Certification Program.

Please join us in congratulating these court reporters and support staff who recently demonstrated their commitment to excellence by achieving FPR certification status:



Lourdes Alvarado Maria Bartlet Joey Beauregard Terri Becker Teresa Bell Barbara Bolton Janine Carroll Susan Chastek Ira Cohen Charlotte Crandall Paul Cunningham Casandra D'Ambrosio Christine deMoraes Elizabeth Drumm-Walters Michelle Eak Jeanette Fiducia Linda Fitzgerald

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Janis Pessamato Jane Petersen Margaret Phillips Amory Ranck Dana Riccobono Kimberley Ross Niomi Ross Angela Saxon Victor Selvaggi Aurora Sloan Debbie Stark Brooke Stuart Dana Sturdevant Marsha Travis Roger Watford Sally Wilhelm Vertina Yeargin

Congratulations are extended to those who passed the first NCRA Realtime Systems Administrator exam on August 6, 2009, at NCRA's annual convention in Washington, D.C.



Richard Applebaum Nancy Paulsen Robyn Barrera Christine Phipps



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## **Message from the President**

By Susan D. Wasilewski, RPR, CRR, CCP, CMRS, FPR 2009-2010 President



## Strength in Numbers

My Fellow Court Reporters: As you are aware by now, the Florida Legislature capped court reporter rates for private court-appointed attorneys and indigent for costs defendant cases effective July 1, 2010. For our judicial reporters, the legislative capped rates, as well as the Justice Administration Commission (JAC) mandates, has made our task even more challenging. These rates will affect each and every court reporter in the state of Florida in some way, which is why it is important that we enlist the help of each and every reporter in some way.

FCRA's Call to Action campaign is a way for you to do your part. For those who have already contributed, thank you for your support. FCRA's members came together and were able to raise almost \$30,000 for the legislative/ lobbyist fund at the Midyear Conference in Orlando, and our efforts to raise more are continuing. For those who haven't yet helped, please answer FCRA's Call to Action by contributing now. No donation is too little and we appreciate each and every contribution.

Our job as an association is to look for ways to educate and protect opportunities for sustainable and profitable growth for court reporters within Florida's marketplace. We need to continually look for reporter opportunities inside and outside of the courtroom. We need to identify what the end users of court reporting services value and provide it, through innovation, technology, useable products, credibility, affordability and the integrity of a written record prepared by qualified and competent reporters residing in Florida.

FCRA has hired The Fiorentino Group, a prestigious and well-known lobbyist firm from Jacksonville, with offices in Tallahassee, Jacksonville and Tampa. The Fiorentino Group will assist FCRA to cultivate key legislative and judicial relationships. With their help, FCRA expects to change the capped rates positively and implement strategic plans for years to come. We need to focus on keeping jobs in Florida; rates need to be competitive, not driven into the ground; quality of work through qualified reporters must be maintained.

As a court reporter who has worked in both the criminal

and civil markets for the past 23 years, these past few months have tested my mettle. Working with so many reporters across the state has made me proud as leader of our association. Reporters have faced the challenges and responded graciously. Seeking wisdom from others who face adversity offers great comfort.

As we continue in the next year, let us hold fast to the tenets that truly make us guardians of the record:

• We will maintain the integrity, honor and sense of duty that befits a guardian of the record. The courts, our clients, and citizens are depending on us. We cannot abandon our posts. "There is always safety in valor." -Ralph Waldo Emerson

• We will maintain the proper attitude. It is a difficult thing to remain upbeat and positive when it feels like the bottom is falling out, but be sure that FCRA is working to improve all aspects of the new rates and regulations. We feel the best outcome will be one suitable for all involved and we are willing to be an active partner in that solution. "A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty." - Winston Churchill

• We will put our best foot forward. Our challenges will provide an excellent opportunity for FCRA to increase awareness in the legislature and JAC of the value court reporters bring to the system. "Better to light a candle than to curse the darkness" - Confucius

• We will maintain the appropriate perspective. There is a bigger picture. Criminal court reporters are a spoke in a dynamic wheel funded mostly by taxpayers. Perhaps statewide rates promulgated by the legislature are the new reality. "That's why God made lobbyists." - Susan Wasilewski ;-)

• We will practice uncommon appreciation. "The hardest arithmetic to master is that which enables us to count our blessings." - Eric Hoffer

Thank you for all your support. Remember, strength in numbers.

## **Editor's Notes**

By Louise Pomar, RPR, FPR, CERT\*D, FCR Online Editor



## Editor's Column: Working with a One-of-a-Kind Judge!

I have decided to dedicate the space reserved for the editor's column to a one-of-a-kind judge who I have had the pleasure of working with in the criminal courts in Putnam County since 2004. After reading the article below, I believe that you will agree that Judge Miller is one unique individual.

Reprinted from the July 1, 2010 edition of Florida Trend By Art Levy

Of Counsel: Unique Sentence for First-Time Shoplifters First-time shoplifters are required to hold signs in front of the store they stole from.



Tired of the negative attention, some stores have asked Miller to make shoplifters display their signs away from their stores. (Photo: Will Dickey/The Times-Union)

When he was 5, Peter T. Miller stole a piece of penny bubblegum from a five-and-dime store. He got away with it, too, until his father found out. "My daddy made me go right back, and he made me apologize in front of a store full of people," Miller says. "And then when I got back home, he beat my butt." It was a lesson learned for Miller, now a Putnam County judge. He never stole again.

These days, Miller sits on the bench and hears cases every day involving people who never learned that same lesson. He doesn't have much sympathy for thieves, but he doesn't incarcerate them every chance he gets, either. For first-time shoplifters, he substitutes the typical 30-day jail sentence for something he thinks will do more good: He makes the offenders carry around in public for up to four hours a sign that says they stole from a local store.



Judge Peter T. Miller, 66 Jurisdiction: Putnam County His term: He plans to step down when his current term ends in 2013, capping more then 25 years on the bench.

Childhood: Miller grew up on a turpentine farm near Palatka, where his family also raised cattle.

On what kept him out of trouble growing up: "I'd have to face my daddy if I got caught doing anything, and I'd rather face a firing squad than face my daddy."

To Miller, the punishment is no different from his father dragging him back to the five-and-dime to apologize. "You try to make them realize that what they're doing is wrong," he says. "I hope to embarrass them enough that they won't do it anymore." He figures he has imposed the sign sentence on about 2,000 first-time shoplifters over the years and, although he hasn't kept track of the numbers, he doesn't see too many coming back as second-time offenders.

Joe Boatwright, managing assistant state attorney for Putnam County, says, "The carrying of the sign does have a deterrent effect within the community, especially in preventing those first-time offenders who carry the sign from re-offending."

Mack Brunton, an assistant public defender in Putnam County, likes Miller and calls him a fair judge, but Brunton is no fan of the sign. "Our office, of course we don't like it, but it's a legal sentence," he says. "Obviously, we've looked into that over the years. We represent our clients and we don't care for it, but does it seem to have a deterrent effect? It does. You have some people who are repeat offenders and always are going to be, but for most people it definitely has a deterrent effect."

In Palatka, the sign carriers were sentenced to march in front of the store where the crime took place, but then some stores got tired of the negative attention and asked Miller to make them march somewhere else. In that case, they march up and down by the Putnam County Courthouse. The local Walmart is an exception. First-time shoplifters there march in an empty lot across from the store, where they don't get in the way of shoppers but are still conspicuous in their humiliation.

## **Association Bulletin Board**





## ARE YOU MOVING? CHANGING A PHONE NUMBER? CHANGING A FAX NUMBER? CHANGING OR GETTING AN EMAIL ADDRESS?

If so, let FCRA Headquarters know right away. Simply fax 407-774-6440 today to make any necessary changes to the information we have on file for you!

	Deadline Dates
(Winter) Nov/Dec/Jan	Oct. 5, 2010
Publication Date	Nov. 12, 2010
(Spring) Feb/Mar/Apr	Jan. 5, 2011
Publication Date	Feb. 12, 2011
(Summer) May/June/July .	April 5, 2011
Publication Date	
(Fall) Aug/Sept/Oct	July 5, 2011
Publication Date	Aug. 12, 2011

FCR Online

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## FCR Online Contributing Editors

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## Court Reporters Perform Important, Thankless Task

Reprinted from the June 9, 2010, edition of Florida Today

### By Larry Johnston

Improbable as it may sound, if you can see or hear, you may one day be called upon to be a witness in court. Today you may learn a few things to help you when it is your turn to sit in the box.

A few months ago, I was privileged to be a spectator at the National Court Reporters Association Speed Contest.

You know what court reporters do. They are the nameless figures you see in courtrooms, both real and on screen, who sit at a mysterious machine and appear to be typing everything witnesses say.

Their job is to make a verbatim record so there is a way of knowing exactly what happened during trials and hearings. It is a job that carries awesome responsibility. Lives literally depend on accuracy.

Now, before I tell you about the speed contest, I will answer the question lingering in your mind. Your question has to be: "How are court reporters able to write that fast?"

#### My answer: It's magic.

Reporters are trained to use a unique shorthand language. They use a steno machine with 22 keys. If you know the shorthand, you can write everything that can be said in English with those few keys. For example, the 20-letter phrase, "What is your occupation" is translated and written as WHAURPGS. Moreover, those eight letters are hit simultaneously with one stroke and not one key at a time as with a typewriter.

#### I told you. It's magic.

Back to our speed contest. The proctor offered some warmup practice by reading aloud at 220 words per minute. For comparison, a typical news broadcaster speaks at about 180.

Fingers flew. Then they edged up to — think auctioneer — 250 words per minute. Some of the contestants exhibited some huffing and puffing. Finally the competition began at a speed of — get this — 280 words per minute. Machine guns

pump out bullets slower.

It was impressive to watch and awe inspiring to listen. When time was up, most of the reporters slumped in their chairs full of relief, but emptied by exhaustion.

Before I tell you about the winner, let me tell you what you need to know if you are ever a witness.

First, don't speak when someone else is talking. No matter how good the reporter, he or she cannot write two people at the same time.

Second, take your time answering. There is no prize for rapidfire responses. Worse, it makes your nervousness more obvious and sometimes makes your testimony sound rehearsed. This reduces your credibility and invites aggressive crossexamination.

Third, don't mumble, put your hand over your mouth or chew gum when answering. If you do, here is how each line of your testimony will read: "Inaudible."

Fourth, forget the "You know what I'm saying" and "like" and "I mean" phrases. After a while, you sound like a buffoon in person and even worse when someone reads the transcript later.

And the contest winner was -- drum roll, please -- the American Judicial System for having such dedicated professional court reporters whose work it is to prepare court transcripts and to preserve our right to a fair trial.

Court reporters perform an important but thankless constitutional task. We should love them.

I've done my part. I married a court reporter.

Johnston is a retired juvenile court judge. E-mail him at LarryJohnstonFL@aol.com.



## Check us out on Facebook! Join the Group: Florida Court Reporters Association

## Jacksonville Jury Awards Woman Nearly \$2 Million in Insurance Case

Reprinted from the June 19, 2010 edition of The Florida Times-Union • By Kevin Turner



Cynthia Deen's life was changed in an instant three years ago when an air conditioning truck slammed into her car as she slowed for a traffic signal at U.S. 17 and Fleming Island Parkway. "I saw him coming in the rearview mirror, but he was coming so fast. He didn't slow down at all," Deen, a court reporter, said. "I think it's a miracle I didn't hit the car in front of me."

The impact left her with several herniated discs in her neck, putting her in debilitating pain and sapping her ability to sit and type for long periods.

Her life changed again recently when a federal jury awarded her nearly \$2 million in a verdict against her insurance company. The truck driver who hit her had dozed off at the wheel, according to testimony. His company had enough insurance with AIG to pay \$500,000 to cover her medical expenses, but with surgery to fuse together the herniated discs in her neck looming, that wasn't going to be enough. Because state law requires uninsured motorist coverage to also cover the underinsured, her attorneys requested her insurance company, State Farm, pay \$300,000. State Farm refused, offering \$225,000, and her attorneys took the company to court. The jury award came after five days.

The week's been hard, she said. As State Farm worked to play down her injuries, she had to call in 13 doctors to counter videotaped testimony from the insurance company's single medical expert, she said. State Farm argued that she overstated her claims of pain and that her ruptured discs were a pre-existing condition that came from natural spine degeneration, said Rodney Margol, one of her attorneys.

Since the accident, Deen said, she's been able to work only a fraction of the hours she used to work for The Caption Co., her small court reporting business which also does work in captioning for the hearing impaired. But she assured her business partner that she wouldn't give up, and she has continued to volunteer for organizations, including those supporting people with hearing impairments. "I didn't want to quit," she said. "I love what I do."

She hasn't wanted to talk about the pain she's experienced, for fear of negative effects on her business. She said her arms constantly shake with pain that she always fights to work through. "All I can do is the really short jobs," she said. "Everything hurts. I really have pain nonstop."

She said she wondered how she would have survived the ordeal and made it through the legal process if she were single and without her husband's support, or without the support of her attorneys. And while she said she's thankful for the ruling, there are some things money can't buy. "Money can't ever give back what it's like to play the piano, to scrapbook or to write all day," she said.

## Editor's Column...

Continued from page 5

"You have to see them because this is also for the folks out there who obey the law," Miller says. "They see that the punishment is something more than just a slap on the wrist. They can see this is what happens when you break the law. It's maybe something they can point out to a child they're raising."

Over the years, Miller has answered questions about his methods from curious fellow judges, although he isn't aware of any of them doing something similar. He says the punishment works in Putnam County because the community is small enough that most people know each other, which ups the embarrassment ante compared to a larger city where a shoplifter might get lucky enough to march in anonymity.

But they do notice in Palatka. To mitigate the embarrassment, some miscreants show up for their punishment wearing dark sunglasses. Miller doesn't allow it. "We tell them to take the sunglasses off or you're going to have to do it again," he says. "I've had people tell me, 'just put me in jail instead,' and that's when I know it's working."

## **Association Business**

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## A TRULP MAGICAL MID-GEAR CONFERENCE

## JUNE 11-13, 2010

By Sandi Estevez, CSR, FPR, Mid-Year Conference Chair

I hope everyone enjoyed The Magic Kingdom of Court Reporting in Orlando, Florida. This year's Mid-Year Conference was a record turnout for conference registrations, FPR attendance and student registrations. Congratulations to everyone who passed the FPR!

The FPR seminar and certification exam was, as always, very informative. The new FPR manuals are very streamlined and word-searchable. This is a must-have reference manual for all Florida reporters!

Friday night's "Magic" Welcome Reception was well attended. The Around-the-World menu included American, Italian and Chinese cuisine sprinkled with lightup wizard hats, magic wands and lots of stars, creating a magical ambiance to kick off the weekend's festivities.

Saturday was a technology expo demonstrating all the different methods of court reporting being utilized today. We had live demonstrations and presentations of electronic reporting in the courtroom, CART and remote CART, captioning, voice writing, stenographic realtime writing and digital reporting.

Our Mid-Year Luncheon and Business Meeting was very exciting. It made me proud to be a reporter and to be a part of the FCRA. As many of you know, there's been a call to action plan that's gone into effect since the time of our Mid-Year Conference as we learned that reporting rates in the criminal arena have been lowered through the Justice Administrative Commission (JAC) budget process. It was amazing to see our membership stand united and commit to doing whatever it takes to raise the much-needed monies to hire a lobbyist to preclude this from happening again next year and to hopefully keep this from bleeding into other arenas of court reporting in the future. Some of the commitments made were o to boost FCRA membership, make personal donations or monthly pledges to the FCRA Legislative/Lobbyist Fund and spread the word to all Florida reporters asking for support during this very important time in our reporting careers. In one 24-hour period at the conference, pledges were made which amounted to \$30,000. Thanks to those individuals who backed up their commitments, and we look forward to hearing from those of you who haven't sent in your pledges as of yet. We also thank you for your ongoing support as we continue to raise awareness and support this year.

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Our Sunday morning session was Electronic Filing in the Courts, followed by a Town Hall Panel: What Does the Future Hold for 21st Century Reporting?

The winner of our Mid-Year fundraiser was Bonnie Lewis from Pembroke Pines. Her prize money totaled \$2,700. Congratulations, Bonnie!

The 2010 Annual Convention is being held October 8-10 in St. Pete Beach, Florida, at the TradeWinds Island Grand Resort. See the next page for more information!



## **Knowledge is Power and Efficiency is Key**

By Susan Shelling, RPR, FPR, 2010 Annual Convention Chair



Join us in October for the FCRA Annual Convention being held in beautiful St. Pete Beach at the TradeWinds Island Grand Resort.

If you haven't already taken the Florida Professional Reporter (FPR) seminar and certification, you are really missing out. This seminar has been an absolute hit and was sold out at the last annual convention. The feedback from reporters has been amazing! You will leave this seminar with a wealth of knowledge and toting the full FPR manual for your reference, so don't forget to register now for the FPR seminar and written exam. No matter how much you think you know, there will still be that "aha" moment — or many of them!

After the FPR exam, you can kick back, relax, and enjoy yourself at the Opening Reception starting at 5:30 p.m. This is a great opportunity to meet your FCRA Board and mingle with friends, old and new.

On Saturday, October 9th, your first stop will be: "How to Keep Your Computer From Killing Your Efficiency," by Michael Merker. For those of you who remember when Michael presented in Fort Lauderdale, you know you're in for a lively, interesting time. He will teach us how to secure and keep our computers healthy so as to not lose time, energy, and, most importantly, our transcripts.

Continuing on Saturday morning, Michael Appelman from StenoCast will be discussing wireless realtime hookup. This seminar focuses on why realtime is important and, most importantly, how to successfully hook up realtime every time, wireless and with wires, regardless of what CAT software or what litigation-support software your clients use.

Saturday afternoon we will address a very important question: Are you at all worried about the future of court reporting and the changes we've been facing? What can we do about it? One of the most critical functions of an association is its ability to rally members to take action when laws or regulations are passed that can hurt the profession. In order to be armed and ready to act when needed, members need to be trained in the essentials of communicating with their clients, their friends, their legislators, and the media. Dave Wenhold's Legislative Boot Camp is just what we need! He is a very captivating and motivational national speaker and has been on CNN, FOX and every other media outlet, including recently in Time Magazine. He will discuss the issues we are facing in the legislature and how best to deal with them. He will also discuss how to educate the attorneys on these topics. Dave Wenhold's Legislative Boot Camp has proven to be a motivational, inspiring, fun-filled means of learning about and discussing these serious topics. Best of all, he has been lobbying for court reporters for over 12 years and knows our industry. This is a "can't miss" seminar!

Saturday evening will be a fun, relaxing evening kicking off with the President's Reception from 6:00 to 7:30.

The rest of the evening is open and yours to enjoy however you wish. At 8:00 p.m. the hospitality suite will be open to all attendees for more social networking and fun!

Sunday, October 10th, will be a fun-filled day, starting with "Briefly Speaking." "Briefly Speaking" is just that, speaking about briefs. This seminar will be a fun-filled briefs exchange with a lot of audience interaction. It will inspire us all to write shorter, faster and cleaner. Remember to bring your favorite briefs and also those trouble words you would like resolved!

We will conclude our Annual Convention with Shirley P. King leading us in a rousing session of "Ethics Jeopardy." Get your game face on and be ready to answer those questions! This seminar has proven to be a blast. This is a fun way to brush up on our FPR topics!

Register now. For hotel reservations, call the TradeWinds Island Grand Resort at 877.300.5522.

To register for the FPR seminar and exam and/or the convention, visit our website at: www.fcraonline.org.

We look forward to seeing you all in St. Pete Beach.

## FCRA Spotlights



## Congratulations... You Did It!

Congratulations to the following reporters from around the State of Florida on achieving their new Florida Professional Reporter (FPR) designation in June of 2010 in Orlando, Florida.

Kristing Allaben, FPR-S Ann Baldassari, RMR, CRR, FPR Robert Balian, CSR (CA, HI), FPR Martha Balkman, FPR-S Rebecca Barrera, RPR, FPR-S Kimberly Bivens, FPR Linda Blackburn, RPR, FPR Soon Britt, FPR Sandra Brown, FPR Lori Bundy, FPR Gretchen Chatley, FPR-S Frances Chippendale, FPR Angela Collins, FPR Chariti Colon, FPR Michael D'Amato, RPR, RMR, FPR April Davis, FPR Lory Dowling, FPR-S Vickie Eaves, RPR, FPR Sally Edwards, FPR-S Lisa Fitzgerald, RPR, FPR Allison Garrett, FPR Evelyn Garvey, FPR-S Lisa Gerlach, FPR Carla Graham, FPR Amy Greenfield-Cook, FPR Katy Hanbury, RMR, CRR, CCP, FPR Barbara Harrell, FPR-S

Sue Harris, FPR Anaela Hartsock, FPR Katharyn Hefenfinger, FPR Darlene Herndon, RPR, FPR Kelly Hickson, RPR, FPR Beverly James, RPR, CRR, FPR Rhonda Jones-Ravnell, FPR-S Jeanine Justice-Reese, FPR Angela Keyes, FPR Barbara Kiley, FPM Jonnie Sue Littleton, FPR Dana Lumpkin, FPR Sussy Luna, FPR Melanie Maxwell, FPR Barbara Maxwell, FPR Matthew McKinney, FPI Natalie McSwain, FPR Denise Meek, FPR Debra Michalski, RPR, CSR (IL), FPR Kevin Mikus, FPR Jessica Milliken, CSR (FL), FPR Alicia Mills, FPM Marie Muniz, FPR Joet Nathey, FPR Nancy Nordstrom, RMR, FPR Jeri Nupp, FPR-S Melody Othienzo, FPR

Cvnthia Packevicz, RPR, FPR Jennifer Parker, FPM Susan Petty, FPR Tamra Piderit, RPR, CRR, FPR Eva Popovich, RPR, CSR (CA), FPR Maria Reeder, FPR Caitlin Roll, FPM Eva Rulapaugh, RPR, FPR Jeanette Sanchez, FPR Jennifer Sanders, FPR Greg Smith, FPR-S Denise (Dee) Smith, RPR, FPR Celena Soto, RPR, FPR L. Marie Splane, RDR, CRR, FCRR, Julie Sullivan, RPR, FPR Elizabeth Tiedemann, FPR Linda Visser, FPR Suzanne Vitale, FPR Charlene Wachob, FPR-S Ellen Watterson, RPR, FPR Trina Wellslager, RPR, FPR Kimberly Wooten, FPR-S Toni Wright, FPR-S Arlene Wright, RPR, FPR Araceli Zambrano, FPR

Many thanks to the June 2010 Florida Rules and Ethics Seminar panel members for their dedication and hard work: Cindy Bender, RPR, FPR; Jennifer Gaul, CMRS, FPR; Louise K. Johnson, RMR, CRR, FPR; and Paulita Kundid, RPR, CLVS, FPR.



## April & May 2010 NCRA Test Results

Congratulations to the following person who became certified as a result of the April 2010 written knowledge tests:

Certified Broadcast Captioner (CBC) Julia Obregon, RPR, CCP, CBC, Tampa

Congratulations to the following people who became certified as a result of the May 2010 skills tests:

**Registered Professional Reporter (RPR)** 

Suzanne Mandel-Vitale, RPR, Fort Lauderdale Christine Phipps, RPR, West Palm Beach Trina Wellslagler, RPR, Lakeland

**Registered Merit Reporter (RMR)** 

Deborah Krotz, RMR, CRR, Naples

Certified Realtime Reporter (CRR)

Karen Blockburger, RPR, CRR, Naples

## **UPCOMING EVENTS CALENDAR 2010**

- Sept 10 12 CLVS Production Examination and CLVS Seminar/Forum & Trial Presentation Program Ritz-Carlton, Phoenix, AZ Register online at www.ncraonline.org
- October 8 10 FCRA Annual Convention TradeWinds Island Resorts, St. Pete Beach, FL Information posted on www.fcraonline.org
- October 8 FPR Seminar and Certification Examination TradeWinds Island Resorts, St. Pete Beach, FL Information to be posted on www.fcraonline.org

Please notify Louise Pomar, Editor, Ibp1958@aol.com, of any upcoming events that you would like to appear in the "Upcoming Events Calendar."

## **Student's Corner**



Have you ever heard anyone say that Latin is one of the "dead" languages? Don't bet on it. Latin is alive and well in the legal world, and judges and lawyers use it all the time. I must admit, when I came back to court reporting I started hearing a few words that almost literally made me stop and say, "SAY WHAT?"

Here are a few of my personal favorites. If you Google these words, some of the sites that offer definitions also offer a pronunciation you can click on, but I will do my best to give you some help.

**CERTIORARI** (Sounds like sir-she-AIR-ee): Basically means a writ from a higher court to a lower court asking that they send all documents pertaining to a certain case so that they may review the lower court's decision.

**SUA SPONTE** (Sounds like sue-a-SPON-tay): Latin for of one's own accord or one's own will; for example, when a court takes action on its own motion rather than at the request of one party or the other.

(Example: THE COURT: I'm going to do this sua sponte.)

**ORE TENUS** (Sounds like oar-ay tennis, like the game): An ore tenus motion is a motion before the court, usually last minute, when an issue comes up in a hearing. One of the attorneys will make an "ore tenus motion."

**RES JUDICATA** (Sounds like reez joo-di-key-tuh): Latin for "a matter already judged." In other words, it cannot be raised again. One attorney or another will bring this up so the court will not consider the matter.

(Example: MR. JONES: Your Honor, I object. That's res judicata.)

LIS PENDENS (Sounds like Liz-pen-dense): Latin for "Suit pending." It usually comes up in connection with title to or interest in real property. (It's coming up a lot with all these foreclosure hearings going on!)

And my personal favorite:

**PRO HAC VICE** (Sounds like pro hawk VEE-chey): I had to ask a judge about this one; it really made me turn my

## "SAY WHAT?" (Or, gotta love that Latin!!)

By Lisa Selby-Brood, RPR

head the first time I heard it. It means "for this occasion" or "for this event." It usually refers to a lawyer who has not been admitted to practice law in a certain jurisdiction, but has been allowed to participate in a particular case in a particular jurisdiction.

(Example: THE COURT: Mr. Jones, are you appearing pro hac vice?)

And some things that we all see but may not know exactly what they mean:

**I.E.** – Abbreviation for Latin "id est," meaning "that is" or "that is to say."

**E.G.** – Abbreviation for Latin "exempli gratia," meaning "for example."

**SIC** – Latin for "thus" "as such" or "in such a manner." It is used when writing quoted material (or for court reporters, in transcripts) to indicate an incorrect or unusual spelling, or when someone has said something and you know it's incorrect, but you want it to be understood that it was their error, not yours, in producing the transcript. Place it in brackets or parentheses "(sic)."

We'll have to do a Part 2 on this. In the meantime, get yourself a good Latin dictionary. They really do come in handy. Like everything else, the more familiar you are with the words, the less likely they are to throw you when you hear them and you're writing fast and furious.

Mid-Year Conference in Orlando was great! We had a record number of students, I think, and I am looking forward to seeing you all in the fall in my own back yard - St. Pete Beach!

Until next time, KEEP WRITING!!

## On the Job

## When is Counsel Required to Furnish a Free Copy of a Deposition to Opposing Counsel? By Judy Everman, RPR, FAPR, CMRS, FPR

This question arises over and over and, unfortunately, the wrong answer is given over and over. This does not apply under every situation that a deposition is filed; it applies when the court must consider the contents of the deposition when ruling on a motion filed by counsel.

Once upon a time, when completed, all deposition transcripts were filed by the court reporter at the same time copies were delivered to counsel. Then one day the clerk's office said, Why do we have all these depositions filed with us when most of the time they are never used? Lawsuits are dismissed and settled.

The clerk's office had the burden of providing the space to store all these unused transcripts, so to address the storage problem, new rules were adopted and court reporters were no longer authorized to file depositions — not to be confused with court transcripts that court reporters can still file — and only the parties or the witness could file a deposition, and then only under the circumstances set out below.

Under the rule below, as an example, if counsel filed a motion for summary judgment that required the court to review the plaintiff's testimony in a deposition, the pertinent portions of the testimony referenced had to be attached, either by way of copies of certain pages or by attaching the original transcript or a certified copy.

Whatever counsel filed with the court, that is what they must furnish to opposing counsel. If they filed the entire transcript, they had to furnish a free copy of the entire transcript; if they filed the motion with certain pages attached from the deposition, then they had to attach the same pages to the copy of the motion furnished to opposing counsel.

You may wish to educate your clients on this because many just automatically file the entire deposition and send a free copy to opposing counsel when it may not be necessary.

By way of history, essentially, as I have been told, the plaintiff's bar managed to get this passed under our noses and the noses of the defense bar that strenuously objected after the fact stating that it forced their clients to help finance the plaintiff's lawsuit by giving them a free copy.

The operative language in the rule is underlined below:

#### FLORIDA RULES OF CIVIL PROCEDURE

#### Rule 1.310 DEPOSITIONS UPON ORAL EXAMINATION

(f) Filing; Exhibits

(3) A copy of a deposition may be filed only under the following circumstances:

(A) It may be filed by a party or the witness when the

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contents of the deposition must be considered by the court on any matter pending before the court. Prompt notice of the filing of the deposition shall be given to all parties, unless notice is waived. A party filing the deposition shall furnish a copy of the deposition or the part being filed to other parties unless the party already has a copy.

1984 Amendment. Court Commentary. Subdivision (f) (3)(A) is the committee's action in response to the petition seeking amendment to rule 1.310(f) filed in the Supreme Court Case No. 62,699. Subdivision (f)(3)(A) is changed to clarify the need for furnishing copies when a deposition, or part of it, is properly filed, to authorize the court to require a deposition to be both transcribed and filed, and to specify that a party who does not obtain a copy of the deposition may get it from the court reporter unless ordered otherwise by the court. This eliminates the present requirement of furnishing a copy of the deposition, or material part of it, to a person who already has a copy in subdivision (f)(3)(A).

The 1984 amendment was written only to clarify that if the party already had a copy, then counsel did not have to furnish them another copy.

Is this in conflict with other rules requiring that the copy be purchased from the court reporter unless the court orders otherwise? Yes, it is, in my humble opinion, because the very next section of the rule states:

(g) Obtaining Copies. A party or witness who does not have a copy of the deposition may obtain it from the officer taking the deposition unless the court orders otherwise. If the deposition is obtained from a person other than the officer, the reasonable cost of reproducing the copies shall be paid to the person by the requesting party or witness.

1984 Amendment. Court Commentary. Subdivision (g) requires a party to obtain a copy of the deposition from the court reporter unless the court orders otherwise. Generally, the court should not order a party who has a copy of the deposition to furnish it to someone who has neglected to obtain it when the deposition was transcribed. The person should obtain it from the court reporter unless there is a good reason why it cannot be obtained from the reporter.

I believe this rule on furnishing a free copy when a deposition is filed was adopted before FCRA became involved with routinely monitoring all the Florida Bar Committee meetings, particularly the Rules of Judicial Administration Committee since they review all proposed amendments from all the committees to assure there is no conflict with any existing rules. Amendments to rules start at the Florida Bar committee level and end up with the supreme court of Florida adopting or rejecting the amendments.

# ETHICS AND PROCEDURES CORNER

By Professional Ethics Committee: Honorary Chair: Shirley King; Co-Chairs: Jennifer Gaul and Susan Wasilewski Members: Cindy Bender, Louise Johnson, Paulita Kundid, Cathy Phillips, Betty Sue Vincent, and Donna Kanabay



## **ATTENTION ALL MEMBERS!!** YOU HAVE A BRAND NEW FLORIDA MANUAL

The Board and committee members assigned to rework our manual have spent considerable time reviewing and updating it for you. Now we would like to ask for something in return. Would you look through the manual and let us know:

1. What do you like?

2. Is there any subject that you want discussed more in depth?

3. Is there any subject NOT covered at all that you would like to see added?

4. Do you see any contradictions from section to section?

5. Are the samples consistent and easy

6. Is the manual easy to use? If not, why not? If so, how so?

Please send all comments directly to shirley.king@kingreporting.com SO that we may address any issues you may have. Plus, if you like what you got, the members listed in front of your manual who worked so hard on preparing this invaluable tool could use a little applause.

Then, in October, come join us for the ETHICS JEOPARDY seminar

planned for the 2010 Annual Convention in St. Pete Beach, Florida,

## On the Job





**Dear Nancy:** 

Morale in my office (reporters, staff) is low and seems to be getting lower. Is it the economy, the state of the profession, or is it me? What can I do about the creeping malaise? Signed: Dee Pressed

Dear Dee Pressed:

The economy is getting your reporters and staff down? No kidding! Our investments, 401(k)s, homes, and even the value of that old Barbie Dollhouse (Ken not included) we've kept in the attic for 20 years have tumbled since late 2007.

Regarding the profession, it is what it is. In some parts of the country, business is amazing, and in other parts it is slow. Keep in mind that business ebbs and flows, but don't let the roller coaster get you down. Your staff looks to you for cues. Should I be worried? Panicked? An upbeat, glass-is-half-full outlook can help keep morale up and your staff motivated. In the Great Depression of the '30s, FDR's jaunty optimism calmed an anxious country and gave folks everywhere the confidence to face the future with hope.

Are you getting out? Are you networking with business groups? These are the times when we all need fresh ideas. It's during bad times when real leadership is needed. Anyone can lead in good times; but when the going gets tough, the tough go shopping...um, I mean the tough keep smiling.

You're the leader and you set the tone. Be confident. Humor is good; gloom-and-doom is not. It's hard to resist the positive outlook of a confident, can-do leader. Counter the creeping malaise by pointing out what's going right for you and your business. People respond well to confident leadership. (I said that already, didn't I?)

#### Dear Nancy:

Since I started reporting 15 years ago, I've turned my transcripts in to the agency within two weeks. The firm owner has always been satisfied with my turnaround times. All of a sudden there's been a request (demand?) for oneweek delivery. There is no additional compensation offered to me for this quicker service. Is this unfair? Should I apply with a new agency? Signed: What's the Hurry?

Dear What's the Hurry?:

The times, they are a-changin'. Realtime. Voicewriters. Big firms with offices nationwide. Freelance agencies that employ sales reps to knock on lawyers' doors looking for business. What's a firm owner to do? Well, try harder. It's called competing. And you need to compete as well. Do you hold the right credentials to keep yourself competitive and sought after? Do you have the skills an agency will value?

I know in my locale, turnaround times have gotten steadily shorter over the last 15 years. It's inevitable. We are in the Information Technology business, and nowadays information is instantaneous. Fifteen years ago, no Internet or e-mail to speak of; not a lot of realtime-based services, like draft transcripts or interactive realtime. Talk to your firm owner about the reasons for change. And check with other reporters. Have turnaround times been shortened at other agencies? If so, you'll be stuck with the new swiftmoving clock.

In today's marketplace, we are held to a higher standard of performance, that's for sure. But we need to be paid — always — for services we provide, i.e., drafts, interactive realtime, expedited delivery. Make sure, in the rush to compete, that your agency is paying you what you're worth.

#### **Dear Nancy:**

I've been a vendor at paralegal and legal secretary trade shows and events for a long time. These days I sit at my table and I feel more and more like I'm being ignored. Is this my imagination or is this a trend? Signed: Slight Unseen

Dear Slight Unseen:

Trade shows aren't what they used to be. Attendance is down, and many people who attend would rather network with each other, drink and otherwise carouse away from home than visit the typically boring sales booth. Go figure! Sounds like the court reporters I know. Think about the last reporters' convention you attended. I know firsthand; I've been a vendor. The bar is always more popular than the exhibitor booths.

Participate with paralegal and legal secretary communities all year round, not just at a trade show. If they come to know you, they will have a "friend" to visit on the trade show floor. And isn't that a whole lot better than thrusting brochures at a bunch of strangers?

Nancy Varallo, RDR/CRR/FAPR, is owner of Court Reporting Management Services, LLC. You can submit your Dear Nancy question at her website: www.CourtReportingMgt. com.



## Frequently Asked CART Questions

Remember when you first started working as a court reporter and needed the guidance of a veteran reporter to help you with what seemed like every new situation? Most seasoned CART providers will tell you that getting some CART training and then doing an internship and sitting in with an experienced Certified CART Provider is the best place to learn the nuances that distinguish CART from court reporting. However, not every unique situation can be addressed in a few interning sessions, and scenarios arise periodically that send us scrambling to other CART providers for consensus or guidance.

QUESTION #1: When providing remote CART for a college student with hearing loss, sometimes I know the professor is having a conversation with another student across the room, but I can't clearly make out the entire conversation. What do I write?

a. I write whatever I can for my student.

b. I only write things that pertain to the class.

c. I write him a parenthetical note that they're speaking of something informally.

d. I paraphrase the conversation for my student.

#### ANSWER:

The best answer is, if you can hear the conversation well enough to write it all, then (a), write it all. If you can hear it well enough to get the gist of the subject of the conversation, then (d) paraphrase the conversation for the student.

It's not your role to edit out things that don't pertain to the class unless you've been instructed to do so by the consumer. One of the advantages of educational CART is for students with hearing loss to be able to hear these side remarks, for they add to a person's general storehouse By Tanya Ward-English, CBC, RPR, CCP, CRR and Gayl Hardeman, CCP, RDR, FPR

of knowledge, and people with hearing loss often miss these important building blocks of socialization – inference, innuendo, satire, cross-references, e.g. So (b) would not be a good choice. If you can't hear well enough to do either (a) or (d), then by all means choose (c).

This is the first in a series of Frequently Asked Questions that we hope will give you some guidance about providing Communication Access Realtime Translation for persons with hearing loss. If you have a question you'd like to see answered in a future issue of the magazine or if you have any comments, please e-mail either of us. Tanya Ward English may be reached at tanya@floridarealtime.com. Gayl Hardeman may be reached at gayl.hardeman@gmail.com.

## **HELPFUL CART LINKS**

#### (As discussed at the FCRA Mid-Year Conference in Orlando in June 2010)

http://www.cart-info.org - Very good information for consumers and those interested in CART. Helpful articles as good CCP background, too.

(beware: apparently cartinfo.org is a casino URL now!)

http://www.ncraonline.org/Communities/CART/ - Useful for studying for the CCP.

http://www.fccdhh.org/what\_is\_cart - Very helpful information for CART consumers and providers, with link to list of CCPs in Florida.

http://www.fcraonline.org/cartpages.html - for information on CART in the Legal Setting (a downloadable brochure), and Model Guidelines for CART in the Courtroom, prepared by NCRA.

http://www.flcourts.org/gen\_public/pubs/adamain. shtml and click on Title II Guidelines to print and save in your office. Appendix F, at page 37, is the Policy on Court Real-Time Transcription Services for Persons who are Deaf or Hard of Hearing, which does NOT mention CCP, although the word "CART" is mentioned as part of the definitions on page 26.

On the Job

## Sleuthing the Net: Truth or Lie? Now We Know Why

By Donna M. Kanabay, RMR, CRR, FPR

You have to love this title: "The Straight Dope - Fighting Ignorance since 1973. (It's taking longer than we thought.)" http://www.straightdope.com/.

I was reminded of that recently when an acquaintance sent me a million-times-forwarded e-mail about the Gulf oil spill. The piece, written with great alarmist authority, stated unequivocally that what "they're" not telling us is that the leak cannot be stopped, and in fact, due to a specific chain of scientific and chemical events, with a bit of physics and maybe some trigonometry thrown in, what is actually going to happen is that the great maw is going to seal itself, pushing the tremendous pressures back down into the bowels of the earth below the sea floor, and create a gargantuan volcano, which will erupt with never-before-seen force, creating the largest tsunami since the beginning of the world, which will cause the Gulf states to be swallowed by the resulting enlarged Gulf. Words to that effect, anyway.

I have to say, it made me pause. There weren't nearly enough exclamation points in the long missive to immediately set off my alarm bells.

I checked my usual first line of defense, Snopes.com. None of the search terms I could come up with yielded anything similar (although, as usual, Snopes revealed other nuggets that were almost as entertaining.). Next, a quick Google to discover the kinds of sites these "scientific facts" had been posted on reassured me that, no, BP and the president and the world's scientific community were not keeping important information from us on purpose. At least not this important information.

I pondered carefully how to respond to this casual friend without offending her. I phrased, and rephrased, and then tried again, to avoid expressing not only my disdain for her forwarding of the message, but any indication of scorn for her son, an engineer at a prominent consulting company, whose signature/ID info was below her note to me (with the note "don't know if this is true or not, but it sure is scary."). I haven't received any response from her, so I'm afraid I didn't succeed with my not-so-carefully phrased, "You don't honestly think that if this was plausible, it would be in the public Know and not circulated as, basically, spam? I'll worry about it when I hear it coming from CNN."

Sigh. My poor mother; she tried so hard...

Mom wasn't well versed in the ways of cyber etiquette before she left us, but I think she would approve of these simple on-line courtesy tenets:

The Core Rules of Netiquette (http://www.albion.com/ netiquette/corerules.html)

1: Remember the human (would you say it to the person's face?).

2: Adhere to the same standards of behavior online that you would in real life (be ethical).

3: Know where you are in cyberspace (lurk before you leap).

4: Respect other people's time and bandwidth (you are not the center of cyberspace).

5: Make yourself look good online (know what you're talking about and make sense).

6: Share expert knowledge (answer questions, and share what you've learned when your questions are answered).

7: Help keep flame wars under control (while flame wars can initially be amusing, they get boring very quickly to people who aren't involved in them).

8: Respect other people's privacy (if you wouldn't ordinarily go through somebody's desk drawers, you shouldn't be going through their e-mail).

9: Don't abuse your power (see 8 - for example, system administrators should not read the e-mail of people on their network).

10: Be forgiving of other people's mistakes (spelling doesn't count – and if you must point out an error to somebody, you should do it privately, not in the group).

The first rule of Netiquette is to ask yourself, would you say this to their face?

Getting back to whether I would have pressed "SEND" on the response I had written in answer to my friend's reposting of unverified information: Yeah, I would have. (And I did. And I fear I wasn't...diplomatic enough, as I've received no response. Sorry, mom!)

Remember, there's a lot of good information out there, but there's even more junk. And even some humor, sorely needed in this environmental and economic disaster: My wandering for outrageous theories about the oil spill somehow led me to a cartoon site that's now an entry in my Google RSS Reader, www.skcd.com:





## MEMBERSHIP APPLICATION Florida Court Reporters Association

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# FCRA welcomes the following new members

(Includes all members who joined as of July 30, 2010)

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