

# Arizona Notes

Arizona Court Reporters Association

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## In this issue...

President's Message.....	3
Board & Committee List.....	3
NCRA Announces .....	5
Free Transcripts? .....	6
NCRA News.....	6
Judiciary Mourns .....	7
In Loving Memory.....	7
Times-They Are a Changin' .....	8
Why Texas Districts Switched Back ....	9
The Hidden Value of Rejection .....	9
The Germany Experience .....	10
Are Court Reporters a Luxury in CA .	11
NCRF Hosts First DAV/VHP Day .....	12
Dear Nancy .....	13

## Advertisers

Legal Video Specialists .....	2
K-Video .....	4
ACRA Insurance Provider.....	12

## Join Us On April 28 - Midyear Seminar

*By Mary Jo Bair, Vice President*

AU/TEPB/SHUPB KOERT RORT/URZ: We are working on a great lineup for our Midyear Seminar. We have Mr. Gabriel Goltz, the Education Program Manager with the Arizona Supreme Court; Mr. Wayne Cummings, Fire Inspector with the Tucson Fire Department; Mr. Zachary Baker with Prestige Fitness, and more to come. Come join us and get ready for a great WORKOUT!!!!

## Help Us Raise Funds – Gift Basket Auction

*By Laura Ashbrook, President-Elect*

Hey..... SICK AND TIRED of being hounded by ACRA board members with raffle tickets hanging out of every orifice on their body????

Find yourself avoiding them at all costs in the hallways at the courthouse or freelance offices? Well, run no more!!!

At the April Midyear Seminar, we're planning to raffle themed "gift baskets." You've seen them at silent auctions and such, right? Spa baskets full of girly products, perhaps a gift card for a pedicure; movie night; wine basket with bottles of wine, cheese, corkscrew; golf basket, et cetera, et cetera, et cetera. You get the idea!

Toward this fundraising endeavor, we are asking for the members' help; either by donating a themed basket already done with a value of at least \$50—let your imagination run wild—or we would welcome any and all donated items such as bottles of wine, cheese, gift cards of ANY kind, etc. You can even donate cash and we can get the items we need to do baskets. There is NO limit. The more donated items, the less impact to our "ever-so-delicate" ACRA balance sheet and more interesting things to bid on and, MOST IMPORTANTLY, no more pesky raffle tickets.....for now anyway.

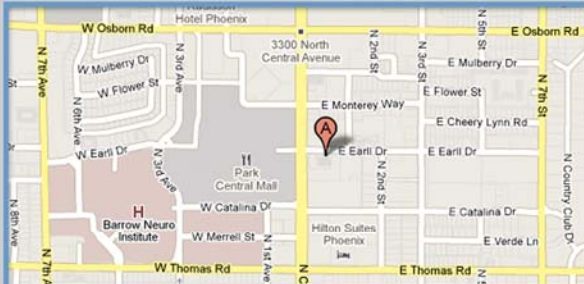
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## **WE ARE CALLED TO BE SERVANTS**

### **President's Message**

I have been puzzling for quite some time over what my message should be. What should I say? Then it came to me. We are called to be servants of the judiciary. What do I mean by that?

In ancient times, our role was important. We were known as scribes. We took the spoken word and made a record of it. Julius Caesar counted on the scribes. There were court reporters recording the spoken word during wars. We report Congressional hearings. We played an important role in recording history.



I can remember when I was all of 18 years old and started court reporting school that I had no idea what a court reporter really did. I know the teachers told us we would all make a lot of money, so that was my main focus in my theory classes. When I started my first job as a freelance court reporter at the age of 19, a wise person told me that it's not about the money. It's about the service. (Thank you, Raynbo.) How right she was and still is.

I recently received a phone call from an attorney wanting to know how much the victim claimed his motorcycle was worth in a criminal case I had reported. The attorney was hoping I could just give him the amount, but he was willing to order the victim's whole testimony. Well, the 18 year old student would have been all about the money and would have told him he needed to order all of the victim's testimony. I don't have that kind of time to search in a transcript for one little thing. Who does he think I am?

However, being the service-minded professional that I am now, I told him I would search the transcript and call him back. I think it took me all of 15 minutes or less to find the amount and call him and let him know. Talk about a happy attorney. I gave him what he wanted, and I didn't have to produce an unnecessary transcript. I believe it's that kind of service, that kind of personal touch that will keep our profession strong.

Think about the people who do CART. Talk about people who provide a valuable service. Those are the people who are having that one-on-one with their client. Think about the people who do the closed-captioning. They, also, provide a valuable service.

Sometimes we lose sight of what our profession really is. How do people perceive us? Do they see us as people who are only concerned about money, or do they see us as serving an important part of the judicial process? As servants of the judiciary, we should be proud of our role. Many times they have tried to duplicate us. Many times they have tried to take us out of the process. Many times they have failed. We are the scribes. We are the voice to print. We are the neutral person in the courtroom, the only person there who doesn't care about the outcome, only that we are able to make a good record.

Are we being the best servants we can be? Some people don't like to be called a servant.

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*President Message, continued from page 3*

They think it means you're at the bottom. I disagree. I think the servant is the one who is at the top. The one who is able to serve and to be proud of their service is the stronger, greater person.

Somehow we stumbled on to this profession. Some of you may have entered court reporting school knowing exactly what a court reporter does. I, on the other hand, had no clue. I just knew that I could type fast in high school, and that little machine looked so cool. I had no idea that I would be responsible for swearing in witnesses. I had no idea that I would be recording someone's last words before they passed away. I had no idea that I would be recording peoples' statements against a defendant who had shot their child.

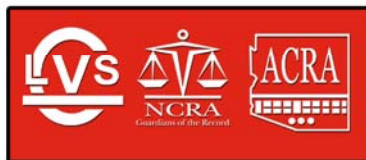
I know now, though, that I was called to be a servant of the judiciary. As such, I will hold my head up high and be proud to be part of the process and able to provide the unique service that I provide. We should all be proud of our service. We should all allow ourselves to shine in our profession.

We have a great profession. It is a profession that I believe will be around as long as the judicial process is around. They can't take us out of that process. We have been there since ancient times, and we will continue on into the future. We just have to remember that we are servants. It is indeed about the service that we provide.



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## NCRA Announces Expedited Delivery of Skills Test Results

January 11, 2012

*Change not only gives candidates same day access to preliminary results online, but also provides access to graded practice tests, as well as to additional online practice materials.*

Beginning with the May 5, 2012 exam, NCRA will move to expedited results for the RPR, RMR, CRR, CBC, and CCP skills tests, which will allow most candidates to receive same-day preliminary results, learning almost immediately whether they have passed. Previously, candidates had to wait on pins and needles for up to six weeks for the same feedback.

NCRA holds its certifications to nationally recognized best practices for test development, administration, and security, while continually striving to meet the needs of reporters seeking to enhance their knowledge and skills. In response to member requests to expand access to certification, and to further enable all reporters to take the necessary steps to become certified, NCRA has partnered with myRealttimeCoach developers, to offer expedited results. myRealttimeCoach personnel have deep experience with all aspects of online learning and testing.

While NCRA had offered expedited results for its written knowledge tests for a number of years through Pearson VUE examination sites, such was not the case for skills tests, which, as practical tests, did not as readily adapt to an electronic environment.

But with the evolution of technology and NCRA's new arrangement with myRealttimeCoach, that has changed.

The online system for receiving candidate transcripts from testing sites, evaluating them, and distributing results electronically has additional benefits:

- The opportunity for all candidates enrolled in an exam to take an online, graded practice test prior to the real thing with instant access to results, displaying exactly where mistakes are being made,
- A more relaxed testing environment in which each individual listens to exam material over personal head phones rather than through a public address system, plus fewer "jitters" because the exam is delivered in the same environment in which candidates practice,
- Overall, a paperless system that brings more consistency and efficiency to test administration across all exam sites, and
- Enhanced exam security through less reliance on surface delivery of materials along with secure logins for everyone associated with the testing and grading processes.

How will the expedited results work?

From the candidates' perspective, most elements of the skills exam process will remain the same. Candidates will still register for a locally-sponsored test site, and an NCRA chief examiner

will oversee the testing.

What makes the new arrangement through myRealttimeCoach so exciting is that it will compel candidates to take part in practice tests online before sitting for the actual exam. Well in advance of test day, candidates will log in to the secure online interface to set up their computer, CAT software, and Internet settings, and to test system set-up. They also will be able to save those settings. Candidates will then take a practice test and receive a score and feedback, just like on test day. myRealttimeCoach users will have the added benefit of experience with a similar process, and myRealttimeCoach personnel will provide customer care to any candidate with difficulty prior to the exam.

On test day, candidates will arrive at the test site, log in to the secure interface, set up and test their system, and be ready to take the exam, exactly as they did at home. Simple steps done in advance will reduce the likelihood of errors on test day, helping to ease the "test anxiety" some candidates experience on test day. Those who assist in administering NCRA certification exams, known as "chief examiners," also will benefit because candidates walk in knowing what to expect by having successfully completed the process in advance.

After an exam file is uploaded, candidates will receive preliminary feedback regarding test performance the same day, and it is NCRA's expectation to further reduce that amount of time in upcoming test cycles. Once tests are reviewed by an NCRA-qualified grader, the final test result is confirmed.

NCRA is pleased to announce this important step for its certification and testing program. Please visit [www.ncra.org/](http://www.ncra.org/) testing for further certification and testing updates, or [www.myrealttimecoach.com](http://www.myrealttimecoach.com) for certification prep. Questions or comments may be directed to the Department of Certification and Testing.

### Beta Test Provides Candidates Free CRR Exam on Friday, Feb. 24

NCRA will beta test its new expedited results system by offering free opportunity to sit for the CRR exam. This special opportunity will be available in one testing location in Reston, Virginia, and only to those who have registered for at least one day of TechCon, NCRA's new educational program focused on court reporting and legal technology. For more information, visit the TechCon website. Subject to space availability.

## Free Transcripts?

By Karen Kahle, RPR, ACRA President

It has come to my attention that some attorneys think that under some disclosure rule they are entitled to receive a free transcript from the attorney who ordered the original. This seems to be all across the Bar, whether it's a civil attorney, a family law attorney or a criminal attorney. I did some research into the rules, and here is what I found:

Under Rule 57 of the Rules of Family Law Procedure, it states under 57(F)(2): Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

Under 26.2(b)(2) of the Rules of Civil Procedure, it states that they are to disclose written or recorded statements by any party or witness including reports or statements of experts.

Under 15.1(b)(2) of the Rules of Criminal Procedure, it says they are to disclose all statements of the defendant; and under (e) (3), it says any completed written reports, statements and examination notes made by experts. Under (h), it covers rebuttal evidence which is written or recorded statements.

Under 15.4(a)(ii) of the Rules of Criminal Procedure, the definition of statement is a mechanical, electronic or other recording of a person's oral communications or a transcript thereof.

Under the Rules of Evidence, **Rule 613(a) provides: Showing or Disclosing the Statement During Examination.** When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

I am not an attorney. However, in my research, it is my belief that none of the rules provide that one side has an obligation to provide the other side with a free transcript.

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## NCRA NEWS: Task Force on Contracting Releases Model Legislation

January 25, 2012

After hundreds of hours of work, NCRA's Task Force on Contracting has published model legislation to help affiliate associations pass laws prohibiting contractual relationships with depositions. To develop this document, the task force reviewed existing third-party contracting legislation from all states that have prohibitions in place, as well as the model legislation developed by Citizens for Impartial Justice and NCRA in 2004. This legislation was developed for state leaders seeking to either implement anti-contracting language or improve their existing legislation.

While passing the entire model legislation is ideal and certainly encouraged, the intent is for each affiliate state association to work with their legislative sponsor and the legislature as a whole to pick and choose from an array of provisions that will make sense for that state. Characteristics of your state, such as whether your state has court reporter licensure or a certification board, whether that board is active or not, commonly accepted court reporting practices in your state, and the composition and political dynamics of your state's legislature, will affect which provisions are feasible to include in your anti-contracting bill. NCRA's Government Relations Department is standing by to assist you in crafting your legislation.

Members of the task force include Chairperson Toni Pulone (Calif.), Marianne Cammarota (N.J.), Laurel Eiler (Tenn.), Mary Meyer (Ariz.), Lisa Migliore Black (Ky.), Rick Paone (N.J.), Lori Urmston (Nev.), NCRA COPE Liaison Karen Yates (Nev.), and NCRA Board Liaison Bruce Matthews (Ohio).

Contact the NCRA's Government Relations Department for assistance from the Task Force on Contracting in implementing third-party contracting legislation in your state. The Task Force on Contracting eagerly awaits your requests to provide assistance to affiliate associations with regard to third-party contracting.

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## Judiciary Mourns Passing of Justice Michael D. Ryan

*As posted on the Arizona Judicial Branch website*

It is with great sorrow that the Arizona Judicial Branch announces the passing of Justice Michael D. Ryan (Ret.) late today. He was 66. His friends, family, and colleagues are shocked and saddened by the sudden loss.

Justice Ryan retired from the Arizona Supreme Court in August of 2010, after serving as a Judge in Arizona for more than 24 years.

“Mike was a statesman and dedicated his entire life to public service,” stated Chief Justice Rebecca Berch. “He was a wonderful friend and colleague who will truly be missed. His kind, soft-spoken demeanor masked a brilliant jurist and the consummate gentleman who could always make me smile with his sharp wit. It is difficult to put into words the loss we all feel today.”

Justice Ryan was appointed to the Supreme Court in May 2002 by Governor Jane Hull. Before his appointment to the Supreme Court, he served on the Arizona Court of Appeals, Division One for more than five years, and as a Judge of the Arizona Superior Court in Maricopa County for more than ten years.

As a trial judge, Justice Ryan presided over a number of high-profile cases on the Maricopa County Superior Court, including AzScam, the Phoenix Suns’ drug case and the 1988, and the criminal trial of Governor Evan Mecham, the first criminal trial in Arizona with "gavel to gavel" television and

radio coverage. Prior to becoming a judge, Justice Ryan was Deputy County Attorney in the Maricopa County Attorney’s Office, where he served in the major felony bureau and the office’s sex crimes unit.

Justice Ryan received his B.A. degree from St. John’s University in Collegeville, Minnesota in 1967. After college he served in the United States Marine Corps as an infantry platoon commander from 1967 – 1969. He received a medical retirement because of wounds received in combat in Vietnam, and was awarded two Purple Hearts, and a Bronze Star with a Combat "V" for heroism in combat. Justice Ryan came to Arizona in 1970 and later obtained his Juris Doctorate degree from Arizona State University Law School in 1977.

In retirement, Justice Ryan continued to serve Arizona. He was appointed by the Chief Justice as chair of the Arizona Supreme Court’s Arizona Regulation Committee and the Attorney Discipline Probable Cause Committee. Throughout his career, Justice Ryan served on numerous charitable and professional boards. From 1974 through 2000, Justice Ryan and his wife cared for more than 80 high risk infants prior to their placement for adoption or return to their birth parent or parents.

Justice Ryan is survived by his wife Karen, three sons, and two grandchildren.

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## In Loving Memory - Hal Eaton April 5, 1926 - February 25, 2011

*Submitted by Chris Green, Owner, Eaton, Green & Williams*

Hal Eaton, a longtime court reporter in Arizona, passed away on February 25, 2011, at the age of 84. Leona, his wife, passed away in May 2007. He is survived by his five children and his seven grandchildren. Some of you may know his daughter, Audrey, who followed in Hal’s footsteps and became a reporter.

Hal moved to Arizona as an infant during the Great Depression and moved around to various parts of the state, settling in Yuma. After high school, he enlisted in the Navy. After serving during World War II, the Korean Conflict and becoming a pilot, he began his court reporting career.

His first court reporting position was as an official in Holbrook around 1953. He then moved to Tucson and took a position in Federal Court. In the ‘60s Hal started his own freelance court reporting business, Eaton & Thunstedt, which became Eaton & Webster and, finally, Eaton, Green & Williams.

Hal was very involved in his community. He was a member of the Scottish Rite, received the Knight Commander Court of Honor in 1983, received his 33rd Degree in 1991. He was also a member of the Blue Angel Unit in the Sabbar Temple. Some of you may have seen him in the parades in town leading the small clown cars in crazy formations. What a sight!

Those of us who worked with Hal will always remember his endless supply of stories and jokes that had us laughing until our sides ached. Hal was quite the character, needless to say.

*Continued on page 8*

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*In Loving Memory, continued from page 7*

After retiring in 1988, Hal and Leona traveled all over North America in his much-loved RV. He remained very active in all his community projects.

I will always remember the first time I met Hal. I came in to interview for my first court reporting job as a scared newbie right out of school. He sat behind his desk, smoking his cigar, and he seemed so intimidating to me, but he was so kind and hired me right then. He was very protective of his new reporters. The first deposition he gave me was an ICA deposition. He said they were the easiest depositions and great ones for breaking in new reporters. Luckily, it was held in our offices. After two hours of writing what was probably one of my worst depositions --the witness was a rambling, excited nightmare, his answers went on for two and three pages at what I thought must have been 300 words a minute -- I finally told the attorney I needed a break. I went into Hal's office with a panicked look on my face and told him I couldn't hang on any longer. He grabbed his machine and said, "Come on, you're going in, and you're going to write the rest with me." After the deposition, he handed me his notes and said, "Here, it's all yours." He made me feel much better by telling me, "That was not your typical ICA deposition, and, after time, you will learn how to handle these situations." He also said, "I made you go back in with me because I knew if you left right then, you would never come back."

Hal always had my back. He was a great friend, mentor and father figure. He is very much missed. I will forever be grateful to Hal, because he was right, without his support and encouragement at that moment, I wouldn't have gone back, and had I left, I would have missed out on a great career and, most importantly, a great friendship.

## **Times – They are a Changin’**

*By Jennifer Schuck, CART provider*

For all intents and purposes, I am a sophomore in high school. I have repeated this grade numerous times in my life and, if I'm lucky, I will get to repeat it a few more times. The first time was much different than the second, third and fourth – actually, I've lost count how many times I've been a sophomore. But today at 1:32 p.m., only five minutes after class started, it hit me – the educational environment is much different today than it was the first time I went to high school. I am no expert in psychology – yet. However, in my job as a CART provider in a public high school, I am enmeshed in the younger generation. And while some things have not changed since 1987 – cliques, trying to find the one for you, having to conform – the way this younger generation takes in information is baffling to me.

I'm lucky this year. I CART English and math and then get a lunch break and then CART biology and sociology. Due to the fact that this is a public school, however, the class sizes are large this year, 40 plus kids in every class. Sociology is the only class that is not an honors class, thus making the personalities in this class different than in the others.

So you may be asking: What does this have to do with being a CART provider? Well, how do you make a class that has 40 kids in it, meant to be a discussion-style type class, inclusive for a hearing-impaired student when you have eight smaller conversations going on at once? The teacher is only facilitating one of those conversations; but due to the seven others going on, I can't hear. The classroom is louder than a dull roar. Some of this has to do with the teaching style of the instructor; this is his method. He teaches more like a college class. If the students choose not to listen, so be it. He uses a microphone so most of the time when the students are quiet, or quieter, hearing

for me is no trouble.

I have moved my seat once. I have asked the kids sitting around me to not have side conversations if it's during lecture time. So today I asked the student next to me, "Does all of this side conversation going on over here bother you?" His response, "Not really, you just get used to it." There is a student that fascinates me in this class. He can hold a private conversation but, yet, when the teacher asks a question, he raises his hand to participate. How does he do that? How can he listen and talk at the same time?

I was raised that you sit quietly, you take notes, you pay attention, you do the best you can on your tests and hope for an A in the class! And some teachers still expect that of the students, but my observations have been that students don't learn that way anymore. They focus differently; they learn differently. And there are teachers who teach differently. Classes are more group-oriented now. So when you have ten groups of four all discussing a book they've read, the classrooms are loud, even for me. And then you have the students who mumble, who don't want to speak up because you're an adult and they are intimidated. Some teachers allow my student's group to go in the hallway where it is quieter and some teachers don't.

As has been said often by a colleague of mine, writing is the easy part. I am constantly being challenged with thinking about how I can do my job better so I am making the experience better for my consumer. What can I do to make their classroom experience better for them to get the most out of their education? There is more to providing CART than just writing realtime.



## Why Texas State District Courts Switched Back to Using Live Reporters

Posted by Ken Adams on Wed, Apr 20, 2011

In hindsight, switching away from using live court reporters in favor of audio only systems in the court system may have been a huge mistake. After all, technical difficulties have halted courts, caused massive delays, required complete hearing repeats, disappearing court records, and virtually useless recordings due to recording problems. Texas state district courts and many others are feeling the pain and abandoning technology in favor of the tried-and-true: live court reporters.

The following Texas state district courts, among others, have switched back from using audio only to using live reporters:

- 272nd in Bryan County
- 194th in Dallas
- 234th in Houston
- 95th in Dallas

284th in Conroe

Below are just a few examples of why Texas state district courts are going back to using live court reporters:

### Audio Difficulties have brought Courts to a Screeching Halt

Imagine appeals against criminal convictions averaging two years. At the South Gauteng High Court, this is reality according to an audit of 54 cases. Among the reasons for the delay: Lost, inaudible, or inaccessible audio recordings.

In Drayton Valley in July 2010, audio difficulties caused all regular docket matters and several trials to be delayed because there was no means to make a record of them.

## The Hidden Value of Rejection

By Burt Gershater

Nobody likes rejection. In fact, many of our behaviors are designed to avoid its sting. Who wants to hear “No, you can’t have that,” “Sorry, I’m not interested,” or “Are you kidding?” Even the remote possibility of rejection keeps many of us from asking for what we really want.

Why ask the boss for a raise? He might say No. Why ask someone out to lunch? You might hear No. Why ask for help of any kind? Why ask for tenderness? Why ask for your eggs to be cooked the way you ordered them?

For many of us, it is safer to live without what we want than it is to risk the specter of hearing the dreadful word No. Here are some common ways we avoid asking for what we want: One is to demand rather than ask. Bullies are afraid to be vulnerable but sadly, never get what they actually need. Another is to act as if everything is okay all of the time. Go with the flow. As

### Failed Audio and Video Recordings have Required Hearing Repeats

In September 2010 in Jefferson County, Kentucky, three months after a suppression hearing

was held, attorneys had to do it all again – including bringing in a detective for questioning and recreating the entire record – all because of a failed audio video system which captured the video portion but not the sound. This is but one of many hearings affected by the failure.



### Court Records have Disappeared or are Useless because they're Inaudible

In addition to outright audio or video failures, court records have disappeared or are otherwise useless because they are inaudible. An older case dating back to 2003 is a good example of this. In this case, the defendant was found guilty of one charge on appeal while the second charge was dismissed completely because the audiotape of the original hearing discussing the second charge wasn't available.

Massive delays, hearing repeats, and charges being dismissed outright are among the main reasons that courts are switching back to live court reporters. Reliable, professional, accurate, tried-and-true – that's why Texas State District Courts are going back to live court reporters!

long as I have no wishes, I won't ever face rejection. And many of us hope that others will be able to read our mind. We say things like, “If they really loved us, they would know what we want.” Unfortunately, good mind readers are hard to find.

What is it about the possibility of rejection that keeps us from stating clearly what we want? What is it about hearing No that can send us into a fit of rage or a sinkhole of depression? What keeps us silent when a few words could change everything?

Our first rejections arrived in our earliest years before we realized that our self-worth could never be dependent upon anyone else. When we are young, it is almost unavoidable for us not to interpret rejection as “You aren't good enough,” or “You are not lovable.”

*Continued on page 10*

*Hidden Value, continued from page 9*

Large doses of childhood rejection can lead to a large dose of post-childhood insecurity. The invalid belief that we are not valued or deserving of love can keep us from risking further rejection.

Our misguided interpretation of early rejection is false. It was never true. You have always been valuable and you have always been lovable--no matter what anyone ever said or thought. Others might alter our beliefs, but they can never alter the essential truth of our value and our lovability.

How can I be so sure? What could ever make one infant more deserving of love than another? Nothing! Love is not limited by conditions. Love loves, regardless.

The hidden value of rejection is that every opportunity to ask for what you want is an opportunity to remind yourself you are lovable and valuable, no matter what answer you receive.

Make it a more courageous and loving week!

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## The Germany Experience

*By Doreen C. Borgmann, RMR, CRR, CLVS*

*This is an excerpt from the book "Way Off The Record". You can purchase this book from [www.MaxyneBursky.com](http://www.MaxyneBursky.com). All proceeds go to the NCRA Foundation to fund scholarships for students. Order your copy today! – Karen Kahle, President*

In the mid '90's when I was reporting with a freelance deposition firm in New Orleans, Louisiana, my husband, a Certified Legal Video Specialist with the same firm, urged me to obtain a CLVS in order to assist him from time to time. Over the next year I attended the requisite classes, passed the examination, and received my certification. I worked a few jobs as a CLVS, but my preference was and always has been reporting. However, one experience made all the effort worthwhile.

One day the firm owner approached me with an offer of a job. A large ship belonging to an international shipping company had had an accident occur on board while heading up the Mississippi River toward New Orleans. The captain and crew were traveling all over the world, and the best place to depose them was at the company's headquarters in Hamburg, Germany. The client needed to schedule three days of videotaped depositions in Germany, but he only wanted to pay for one person. The question was whether I could handle both the reporting and videotaping simultaneously.

My husband and I immediately began investigating all the technical aspects that would be involved. Our first concern was electrical power. The power converter available at that time was much too heavy to carry with me. Since we were to stay at the InterContinental Hotel in Hamburg, I called the InterContinental in New Orleans, explained my problem, and inquired whether they could help me. They graciously made the arrangements for a power converter to be available at their sister hotel in Hamburg upon my arrival.

Our next problem was my ability to control both processes, reporting and videotaping, simultaneously. I obviously couldn't be both behind the camera and up close to the witness, my preferred position for reporting. Headphones with a long cord and a five-inch remote monitor and remote on/off switch enabled me to maintain my preferred position and also monitor and control my audio and video.

Our departure date arrived, and the client and I flew uneventfully to Frankfurt, where we were to connect to a flight to Hamburg. All baggage was checked except for my camera and my steno machine, which I carried on. Frankfurt, being a major hub for air traffic out of the Middle East, was particularly sensitive about security. We were required to retrieve all our baggage, go through customs, and recheck it. Uniformed policemen armed with automatic rifles and bomb-sniffing dogs patrolled the area. At one point I was pulled out of line by a policeman and ushered to a private room, where I was questioned and my steno machine case was thoroughly examined and tested for explosives residue.

Having passed inspection, my client and I proceeded to Hamburg, which is an incredibly beautiful city with the AuBenalster (Outer Alster Lake) and Binnenalster (Inner Alster Lake) running right through the middle. The shipping company hosting the depositions was located prominently on the Binnenalster, and our hotel was on the AuBenalster. I had ample time for daytime sightseeing since our depositions were scheduled for mid afternoon each day. The plaintiff's attorney was attending by telephone, and we were limited to several hours each afternoon due to the time difference.

Mechanically, everything went smoothly. All three witnesses spoke English with some accent. We had to interrupt the

*Continued on page 11*

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*The Germany Experience, continued from page 10*

proceedings several times for calls to the judge back in the U.S. to settle disputes between the contentious counsel, which I managed smoothly with my remote monitor and remote on/off switch.

After the first day's session was ended, we were invited by our gracious host at the shipping company to have schnapps at the local pub across the street. The schnapps was delicious, but I didn't think it was having much of an effect until I realized my lips were completely numb!

When all the depositions were completed, my client and I found a beer garden along the shores of the lake, where we sampled several of the wonderful local German beers and watched the sailboats and sculling races for the rest of the daylight hours. Our trip home, however, was a disaster! At the Frankfurt airport, my client was obsessed with the duty-free shop. I made a couple of small purchases and then waited for him outside,

frequently admonishing him to hurry. When we finally made it to the counter, our seats had been given away. We managed to get on the next flight, but we were routed through Cincinnati with no guaranteed connection into New Orleans. In Cincinnati, he was able to get only one seat going to New Orleans, which I urged him to take since he was going home to small children. I waited several hours before getting a flight for home.

The one bright moment in my arduous homebound trip was that, while waiting for my flight in Cincinnati, I ran into a New Orleans attorney whom I had met on depositions. She and I had always had a very congenial relationship. After the trip, she began using me for all her depositions. She did asbestos work exclusively, and all depositions had very large copy orders. Largely due to my work for her, I was able to buy my dream car the next year – fittingly, a Mercedes Benz E-320.

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## Are Court Reporters a Luxury Item in California?

*Cheryl Miller and Cynthia Foster All Articles: The Recorder*

### Image by Ambernectar 13

For a growing number of California's trial lawyers, a briefcase isn't the only thing they need to bring to court anymore.

A handful of courts, struggling with severe budget cutbacks, are now requiring lawyers and litigants to hire their own court reporters for many types of civil proceedings -- or face going without one.

San Francisco Superior Court announced Thursday that it is dropping reporting services in 16 courtrooms, including most of its civil departments. Napa, Alameda and Stanislaus are among other courts that have already adopted, or are in the process of adopting, a bring-your-own-reporter policy.

Court leaders say that after years of funding reductions they've run out of cost-cutting alternatives: Non-legally mandated services have to go. San Francisco Superior Court will save \$132,000 in salary and benefits for each of the 12 official court reporters who have received pink slips.

"Unfortunately the court's making a lot of changes that affect not only attorneys but the public," said San Francisco Superior Court spokeswoman Ann Donlan. "We have no choice."

But court reporters and some judges and lawyers say eliminating civil scribes is penny-wise and pound-foolish -- and akin to slapping an entrance fee on the courthouse doors.

"It becomes a whole access-to-justice issue -- who has enough money to see things through," said Lyn Yard, past president of the California Official Court Reporters Association.

John Hullverson, a San Francisco plaintiffs lawyer on the board of the Consumer Attorneys of California, agreed. "The loss of court reporters in San Francisco, with the cost being passed on to the parties, represents another hurdle standing in the way of regular people having access to the courts," said Hullverson, of Emison Hullverson. San Francisco Superior Court Judge Charlotte Woolard suggested the lack of readily available reporters and transcripts would hinder trials.

"It's rare that I have a jury trial where the jury does not request read-back during deliberations," Woolard said. "Usually after read-back, the jury can reach a verdict because one or more jurors have been convinced to change his [or] her mind when faced with the actual testimony. We are really going to miss our court reporters in civil."

California **Rules of Court** give trial courts a fair amount of discretion to determine by written policy when they will provide court reporters in civil matters. Discerning funding sources for such services, however, can be a little murkier.

Under state law, each set of filing fees that civil litigants pay includes a \$30 charge for official court reporting services. Within Government Code §68086.1, lawmakers say that in enacting the fee it was their intent "to continue an incentive to courts to use the services of an official court reporter in civil proceedings." But the statute goes on to say that the Judicial Council can use the fee money to offset budget cuts from the state.

*Continued on page 12*

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*Are Court Reporters A Luxury in California?, continued from page 11*

Those fees generated almost \$20 million in the fiscal year ending in 2010, according to figures from the Administrative Office of the Courts. Litigants paid another \$12 million in so-called per diem fees for court reporters in lengthier civil matters.

Court reporters contend that the AOC should direct all of that money to reporting services. The AOC says the fees go to the Trial Court Trust Fund, which is then distributed to trial courts -- as well as other branchwide programs -- to pay for operations like court reporting, so there's no need for a special allocation.

Lawmakers, usually Republicans, have proposed in the past that courts switch to electronic court reporting to save money. Those proposals have quickly died, however, in the face of stiff opposition from the reporters' lobbies and unions as well as many lawyers who say recording is unreliable.

San Francisco court leaders are considering the use of electronic recording in misdemeanor cases, but not as a replacement for reporters in civil matters.

## NCRF hosts first DAV/VHP Day at NCRA

On Saturday, January 14, 2012, NCRF hosted a Disabled American Veterans/Veterans History Project (DAV/VHP) Day at NCRA Headquarters. The DAV Charitable Service Trust awarded a \$5,000 grant to NCRF to expand the VHP by interviewing disabled veterans, and this was the first of many events NCRF will host with DAV Chapters across the nation. The event was a great success thanks to the efforts of so many people who came together to honor the veterans who agreed to tell their stories for the VHP.

Fourteen veterans, representing wartime service in World War II, Korea, Vietnam, Persian Gulf, and Afghanistan, attended and were interviewed for the VHP. Their stories will be archived at the Library of Congress where they will be made available to researchers, historians, and the public.

Five Washington, D.C.-area court reporters did our profession proud by volunteering their time and talent on a Saturday to record and transcribe the oral histories. The volunteers were Tracy Dunlap, RPR, CRR; Terri Etekoachay, RPR; Christine Hartman, CBC, CCP; Julie Richer, RPR; and Katy Zamora, RPR, CRR. Two court reporters did double duty and volunteered to be interviewers.

Representatives of the Disabled American Veterans and the Library of Congress also participated; they met the veterans and provided assistance and guidance, if needed. They also conducted interviews, and as vets themselves, they shared their stories for posterity.

It was an amazing collaboration of people who were there to honor those who served our nation during periods of war.

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# Dear Nancy

**Dear Nancy:** Is there a rule for the use of the trademark or registered symbol after the brand name of a product or medication? If so, do you use it only on the first mention but not throughout the transcript? Please help.

## Signed, To Use or Not to Use

**Dear To Use or Not to Use:** That is the question. (*Pace* Shakespeare)

I wasn't sure myself, so first I went to *Morson's English Guide for Court Reporters*. Couldn't find it referenced there, so I did a little Google investigation. (Did you catch the hint there?) What do I love best about Google? It's the great buffet, serving up all kinds of options for you: the informed, the educated guess, the custom and practice, the far out. And once you've sampled far more than you can possibly digest, it asks you to click to the next page. All the world's a buffet. (*Pace* again, William) But we were talking about punctuating transcripts, not my next cruise, weren't we? Riveting, yes. From my search, I got three answers – each from a different website – and they are:

- When using the name of a federally registered item or service, use the circle-r (®) mark on first use.
- Try iPod as an example. Technically, you do not have to put the trademark symbol next to the iPod name as long as you make it clear that it is Apple's registered trademark. However, if you want to be a stickler about symbols, then put it in. As long as you credit Apple (e.g., by saying "Apple iPod" instead of just "iPod"), there should be no trouble.
- The Chicago Manual of Style says the symbols ® and ™ "need not be used in running text."

And since I believe that the KISS principle (Keep It Simple, Stenos) is the greatest principle on the planet, and since I always choose the easy way out when it's an option, I'd choose the third answer. Just KISS me and I'm yours.

**Dear Nancy:** Your article in the April JCR prompts a question about "new paragraph" usage, i.e., starting a new paragraph with the phrase, "Which brings me to those fascinating blogs," etc. I'm from the old school and we were taught that a sentence must have at least a noun and a verb; if not, it's an incomplete sentence. Yet I see these sentence fragments all the time in newspapers and print media, and I'm perplexed. Is this the new style? Are the old rules for writing inoperative?

## Signed, Old School

**Dear Old School:** Robert Day's *The Ten Commandments of Good Writing* is a hoot. His Rule #10 is: "About sentence fragments." Always cracks me up. Likewise with his Rule #1: "Each pronoun should agree with their antecedent." Heh heh. In a terrific article written for the Colorado Springs Fiction Writer's Group entitled *Using Your Poetic License in Prose*, R. Michael Burns states: "You *must* know the rules in order to break them properly. Because yes, there *are* 'proper ways' to break the rules... Let me be clear: I am *not* suggesting some sort of literary free-for-all here. There's a single, vital question which you *must* be able to answer with a resounding 'yes' -- or else all your rule-breaking is just so much verbal vandalism. The question is this: Is the prose clear and evocative?"

He continues: "Consider fragments. A fragment is an incomplete sentence -- that is, one which doesn't have both a subject and a predicate consisting of (at least) a verb. The shortest possible complete sentences in the English language are, 'I am' and 'I do.' 'I' is the subject of each, 'am' and 'do' are the prepositions, composed of nice short, naked verbs. In general, fragments are mistakes, the result of a writer forgetting his purpose halfway through a sentence... Under some circumstances, though, a fragment can be just the thing. Consider this, from Elmore Leonard's *The Big Bounce*:

*'Hey, who's in there?' A pause. 'Come on, let me in!' Silence. Let it sink in, Ryan thought.*

"The sentences, 'A pause' and 'Silence' are both fragments. Leonard certainly could have written, 'There was a pause' and 'There came only silence' or other similarly 'complete' lines. But the fragments convey the same meaning just as clearly, and fit not only Leonard's terse style, but also the scene's staccato rhythms and the streetwise sensibilities of the characters. The prose has a beat to it, and the fragments serve that beat without sacrificing an ounce of clarity.

"Again: clarity is the goal. If the fragment fits the pace and evokes a sense of mood or tone, and if it does so without losing any meaning, then it's a perfectly good and useable tool."

*Dear Nancy, continued from page 13*

Mr. Burns concludes: "Break the rules deftly and deliberately and your prose will shine.

Now, by the power vested in me by the University of Colorado (which issued me a degree in English with 'all the rights and privileges thereunto appertaining' of which I believe this *must* be one) I bestow upon you your very own Poetic License. Go ye forth and commit eloquent, evocative prose."

I strive to write in a conversational voice in my advice columns, and that is often not grammatically pure. We have Mr. Burns' blessing to "commit eloquent, evocative prose," and that's my goal. BTW, a colorful, likable character jumps out from Burns' lively prose. I'd love to hear him hold forth at an NCRA seminar on his concept of poetic license. I am now in my fifties (early fifties, thank you) and it would be a comfort to have validation of my hip up-to-dateness. Which brings me to my next question.

**Dear Nancy:** I have been a court reporter for nine years and I feel my speed is slower than when I first started. I was wondering if you had any tips on how to improve my speed. Should I listen to tapes again?

### **Signed, The Hands of Time**

**Dear The Hands of Time:** Let me offer you a helping hand because one hand washes the other, even though sometimes the left hand doesn't know what the right hand is doing. But today you can expect a handsome return from my handy tips and evenhanded advice. (Yeah, I know, that's enough already! Hands off!)

First, do use dictation tapes to practice -- on the job.

Consider swimming and writing steno. Learning to swim is the first step. With a proper routine, you can work up to ten laps, then more. You're in shape, and adding extra laps is not a big deal. Once you stop your routine, you don't forget how to swim, but the laps get tougher to complete.

Maintaining steno speed is all about the routine. It's difficult to come home after a long day and get your equipment out for a practice session. Instead, work *with* your schedule. Reporters often wait around for their depo or trial to start. Use that time for meaningful practice. There's lots of advice on how to practice. The experts -- Mark Kislingbury, Ed Varallo, Chuck Cady, perhaps your former teacher -- are all ready to share their practice tips with you. And they know what they're talking about.

The key is making practice a part of your daily routine. Before you know it, you'll have that RMR or CRR, or the 99.5 percent translation rate you'd like to have on even the toughest jobs.

Copy a couple of 5-minute takes to a flash drive and throw it in your computer case. While waiting for the job to start, you can do some speed practice. (Don't forget your headphones!) I'm sure your daily schedule is as overpacked as mine. Make use of your odd moments. It's a great way to keep your technique in tiptop shape.

*Nancy Varallo RDR/CRR/FAPR, owner of Court Reporting Management Services, LLC, offers customized business and office management services to court reporters and reporting agencies. Nancy has been a court reporter since 1979, and has trained hundreds of court reporters, and fielded thousands of questions from reporters. Please ask your question at [www.dearnancy.com](http://www.dearnancy.com)*

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## Dates to Remember...

**April 27, 2012**

***ACRA Board Meeting***

Mesa

**April 28, 2012**

***ACRA Midyear Seminar***

Mesa

**August 10, 2012**

***Fall ArizoNotes Deadline***

Contact Karen Kahle at (520) 740-3015 / hvymtlccr@juno.com for submissions, and Robin Hirth at (480) 496-4010 / office@acraonline.org for advertising information.

**September 14-16, 2012**

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## DEADLINES

Fall Issue - August 10, 2012  
Winter Issue - November 10, 2012  
Spring Issue - March 10, 2013



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