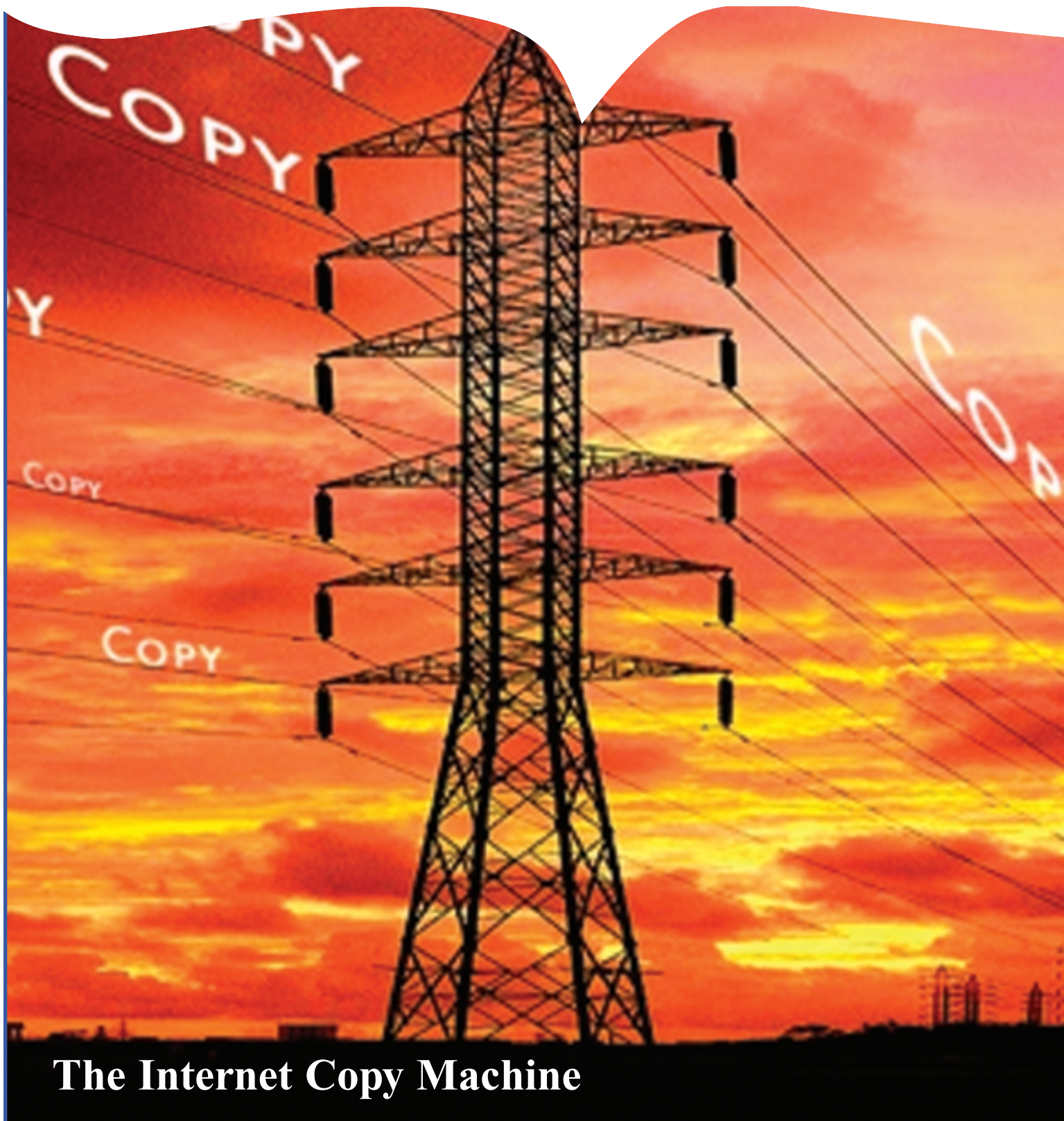


# CCRA *online*

Issue 3 | March | 2008



**The Internet Copy Machine**

## Features

- 4 President's Message
- 5 Transcript Increase Bill  
Victim of State Budget Crisis  
AB582 — Update
- 6-7 Are Your Transcripts Posted on the Web?
- 8-11 The Internet is a Copy Machine
- 12-13 CCRA Adopts NCRA Backup  
Audio Media Guidelines (BAM)
- 14 CR Board Approves Legislative Language  
re Firm Responsibility
- 15 Depositions and the Business Subpoena
- 15 Punctuation
- 16 Offshore Transcription Warning
- 17 Judicial Council Request for Comment
- 18-20 Ask a Reporter
- 20 The Gadget Guy
- 21 Briefs Online
- 22-24 ER Proposal in California Courts
- 24 Eclipse Tip — No. 4
- 24 Classified Ads
- 25-29 Legislation Update

### CCRA Online Copy Deadlines

The deadline for ad and article copy for CCRA Online is the first of the month prior to the scheduled publication date. Articles, ad copy, changes of address, complaints of nondelivery and subscription requests should be directed to CCRA, 65 Enterprise, Aliso Viejo, CA 95656 or call (949) 715-4682. Advertising inquiries also should be directed to the Association office. Photographs accompanying articles should be RGB color JPEG files with a resolution no less than 120 ppi.

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### CCRA MISSION STATEMENT

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

## President's Message

By Lesia J. Mervin, CSR, RMR, CRR



**“There is no reason anyone would want a computer in their home.”**

*— Ken Olson, president, chairman, and founder  
of Digital Equipment Corp., in 1977*

Fortunately for us, no one listened to Ken Olson. It's the computer that saved our profession. The court reporters of 1977 faced the same challenges court reporters of 2008 face. Even in 1977, the invention of cheap copy machines threatened the extinction of copy sales. Sound familiar? In 2008, our new digital age (the Internet copy machine) threatens the same thing. In 1977, we were told we would be replaced with tape recorders; in 2008, it's digital recording. It's because of dedicated members like you that have enabled CCRA to be on the forefront in winning that battle and many other battles that seem to constantly be brewing.

One such battle is the California's budget crisis. It has claimed another victim: the official court reporter. CCRA was very disappointed to have to report to you that AB582 had to be pulled. Our team had worked so diligently this past year and a half and we were really hopeful for a positive result. (See article herein: Transcript Increase Bill Victim of State Budget Crisis) As always, we will continue to work toward that goal.

On February 21, another blow was dealt to the California official reporters. The Legislative Analyst's office came out with a proposal for an alternative budget due to the budget crisis. This included a complete phaseout of court reporters and instituting electronic recording. No need to panic. It is only a proposal in the beginning stages of development. A team has been put in place and the battle begins.

Another battle that is surfacing over and over again is the posting of official transcripts on Web sites and blogs. (See article herein: The Internet is a Copy Machine) Just ask Shavavian Crump, Madera Superior Court reporter, how she felt when I called her to tell her that a 157-page transcript of hers was posted on a Web site. The transcript was Fed-Ex'd to an attorney only two days before and already was **posted in its entirety** on a blog site. I had an interesting week of phone calls and e-mails with the site owner, who was not too happy with me finding him — he thought he could remain anonymous because it's on the Internet — and about the Government Code section I cited him demanding he remove the content from his Web site. (See article herein: Are Your Transcripts Posted on the Web?)

Another battle is the posting of transcripts on Web repositories without remuneration to the reporter. CCRA has met with vendors and a task force is in place to explore all the possibilities available to us to meet this issue. Watch for the task force's report and recommendation that will be available soon.

And just when you think you're fighting a losing battle, just think of the telephone company executives who read this Western Union internal memo written in 1876:

**“This telephone has too many shortcomings to be seriously considered as a means  
of communication. The device is, inherently, of no value.”**

*— Western Union internal memo written in 1876*





## 2008 Freelance and Official Compendiums

**Now Available!**

**\$25 – Members**

**\$35 – Non-members**

A big thank you goes to Doreen Perkins and her team of Fresno court reporters for having just completed the finishing touches on the 2008 Official Compendium, and to Sandy Bunch VanderPol for having completed the 2008 Freelance Compendium, now available for sale on our Web site. Many volunteer hours are spent completing this project. Their dedication to the reporters in California is greatly appreciated!

[www.cal-ccra.org](http://www.cal-ccra.org)

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## Transcript Increase Bill Victim of State Budget Crisis AB582 – Update

As everyone is aware, the budget in the state of California is in dire straits. That is bad news for official reporters and their chance for legislation passing to increase transcript rates. SEIU (Service Employees International Union) has been the driving force on AB582. Unfortunately, with all of the cuts mandated by the Governor, bills that have a price to them are being pulled by their authors because they will not get out of the Appropriations Committee. Court reporters asking for a raise, when there are cost-cutting measures being made to the poor and elderly and the education system, would not receive a positive reception.

Where do we go from here? It's very important that we keep our issue alive in the minds of the legislators. Since we're not able to move forward this year with this transcript increase bill, the AB582 committee, consisting of representatives from CCRA, SEIU, and COCRA, have met and decided to seek a resolution from the legislature (hopefully authored by Noreen Evans, the author of AB582) setting forth the importance of reporters in the judicial system and why this bill is important. A resolution expresses the legislature's opinion about a matter within their jurisdiction. It requires the approval of both the Assembly and Senate but does not require the signature of the Governor. While a resolution does not accomplish a raise in official transcript rates this year, it highlights our issues and raises awareness in the legislature. This will be helpful in the future when another increase bill is introduced. Once the resolution language is finalized, it will be passed on to you.

We are committed to obtaining a transcript increase for officials and will continue to work toward that goal. It is important to remember that any time you have an opportunity to lobby or speak to your assemblyperson or senator, that you mention the plight of the official reporters in their constituency and the fact that they continue to produce transcripts for litigants and defendants in the state of California at 18-year-old rates. This is a very powerful statement to make and hopefully one that will stick with them when we reintroduce a transcript increase bill in the future.

**A special thank you goes to CCRA's AB582 committee: Doreen Perkins, Arnella Sims, Lesia Mervin, and Jim Partridge. Many hours were spent facilitating the passage of this bill through lobbying efforts in Sacramento, conference calls, meetings, and negotiations. This was truly a great team of professionals.**

CCRA will keep you apprised of the progress of the resolution and any other developments in this endeavor. Thank you all for your support of this legislative effort. Without the dedication of CCRA members like you, none of this could ever be accomplished.



*Need Health Insurance?*

**Consider this CCRA Membership Benefit**

*You can purchase an HMO or PPO plans in most areas of the state as well as a Health Savings Account compatible high deductible plan.*

For more information contact Peter Burford, CCRA's Insurance Expert by email at [pbur98@hotmail.com](mailto:pbur98@hotmail.com) or by phone at 904-955-0703

# Are Your Transcripts Posted on the Web?

By Lesia J. Mervin, CSR, RMR, CRR



Wouldn't you like to find out if your transcripts are on the Internet? Go to [www.google.com](http://www.google.com) and type in your name in the search box. You might be surprised what comes up. If a transcript of yours is posted in its entirety on the Web, chances are your name on the certificate or title page will trigger a listing of Web sites that have your name in it.

I was able to find the full, 157-page official court transcript of Shavavian Crump, a reporter in Madera County court, posted on the Web by the use of Google Alerts. ([www.google.com/alerts](http://www.google.com/alerts)) This is a feature of their search engine that will alert you to search for certain words or phrases you have chosen (such as your name) and will send you a periodic e-mail alerting you to Web pages on the Internet that Google finds with those words or phrases contained therein. A few of the alerts I have chosen are for phrases like "court reporter," "official court transcript," "court reporting," and "Lesia Mervin."

The alerts have enabled me to find articles all over the nation in regards to court reporting, digital recordings, ER, and court reporters. Sometimes it's news articles, sometimes blogs or Web pages. This enabled me to find the Madera County transcript posted on [www.badlandsjournal.com/?p=435](http://www.badlandsjournal.com/?p=435).

To my surprise, the alert for "court reporter" showed up in my e-mail box one day, and it had listed the badlandsjournal Web site having the "full official court transcript" of the proceedings held in Madera County just a few days before on their Web site. Of course, this intrigued me and I immediately went to their Web site. Sure enough, there was the entire 157 pages posted for all to see.

I immediately called CSR Shavavian Crump and informed her that her transcript was posted on the

Web. She informed me she had FedEx'd it to the attorney only two days before. While she called the attorneys in question, I proceeded to do a little detective work to find out who owned the Web site so I could contact him. There are several Web sites (I used [www.networksolutions.com](http://www.networksolutions.com)) that allow you to find the owner and contact information for any Web site.

I e-mailed the owner and demanded he remove the official transcript from the Web site, quoting Government Code 69954(d) as the authority for removal of the content.

When I received no response and the content was not removed by the next day, I called him. Let's just say he was not a happy camper. He said he was "awaiting a response from his attorney" as to whether he had to remove it.

Final score: Court Reporters – 1; Copy Thieves – 0

I continued to monitor the Web site and found that while he had removed the full transcript, he certainly wasn't happy about it. In its place he posted the following blog that I thought you all would find humorous:

## **A law that works a hardship on the public**

*Regular Badlands readers may have noticed that the 157-pp official transcript of the trial-court hearing on the CEQA case brought against Merced County and the Riverside Motorsports Park by San Joaquin Raptor Rescue Center, Protect Our Water and the Merced County Farm Bureau was removed last weekend from the site. This was done pursuant to the following notification from the president of the California Court Reporters Association and the advice of attorneys.*

*continued on Page 7*

## Are Your Transcripts Posted on the Web?

*(continued from Page 6)*

Mr. H...

The official transcript of the court hearing in the case of San Joaquin Raptor Rescue Center vs. County of Merced must be removed from your Web site, Badlandsjournal, pursuant to Government Code Section 69954(d).

(d) Any court, party, or person who has purchased a transcript may, without paying a further fee to the reporter, reproduce a copy or portion thereof as an exhibit pursuant to court order or rule, or for internal use, but shall not otherwise provide or sell a copy or copies to any other party or person.

If you have any questions, feel free to contact me.

Lesia J. Mervin  
CSR #4753, RMR, CRR  
President – California Court Reporters Association  
[www.cal-ccra.org](http://www.cal-ccra.org)

*We have several remarks to make about this tendentious interference with freedom of speech.*

*First, as frequent readers of court transcripts produced by California court reporters, we can understand how their guild might wish to assert a copyright similar in force to that of any other novelist to protect the product of her creative genius. Court transcripts, although “official” and definitely public documents, are not always accurate.*

*Secondly, we sympathize with court reporters’ difficulties extracting payment from unscrupulous attorneys for their official and public productions. In the case where Whiplash Willie is representing Duane X against MegaCorp, Willie doesn’t always pay for the transcript. Likewise with the litigator from Slaughter, Gutbubble and Trash, representing Acme, Inc. v. ABC Import-Export on who pays the rent on the container*

*full of 16-p nails on the Oakland docks. Also, it is possible that in this particular case, which has involved stories of the project proponent not paying legal bills, respondents have not paid for their transcripts. Should petitioners and the public on behalf of which they sued, who have paid their bills, be punished?*

*However, the court reporters’ effective lobbying to assure them their justly deserved fees — righting what is apparently an historical wrong done to hardworking, underpaid court reporters — works an unfair disadvantage on the public bringing and supporting lawsuits under the California Environmental Quality Act. These are cases in which petitioners represent the public against their land — use authorities. More than 100 people testified or tried to at the public hearing before the Merced Board of Supervisors on this project. In fact, at the close of that marathon session, an elderly farmer remarked in the elevator: “Only the Raptors can save us now.” Many of them supported the bringing of the lawsuit against Merced County and RMP. In CEQA, the public brings the suits against their local governments. The public unable to attend a full-day court hearing of the case should have the right to read the transcript. Despite the view of local organizers and public officials that CEQA is something to be memorized like Scripture to spice up public comments and staff overviews of projects, the public best learns it seeing arguments in local trial court made by petitioners and respondents about projects in the public’s own backyard*

*We appreciate the difficulties court reporters face that occasioned this law. But the Legislature should amend Government Code Section 69954(d) to allow transcripts of cases brought on behalf of the public to be shared with the public. Private property rights in public documents strike us as peculiar doctrine.*



## Electronic Filing of Court Transcripts

*Casper, Wyoming*

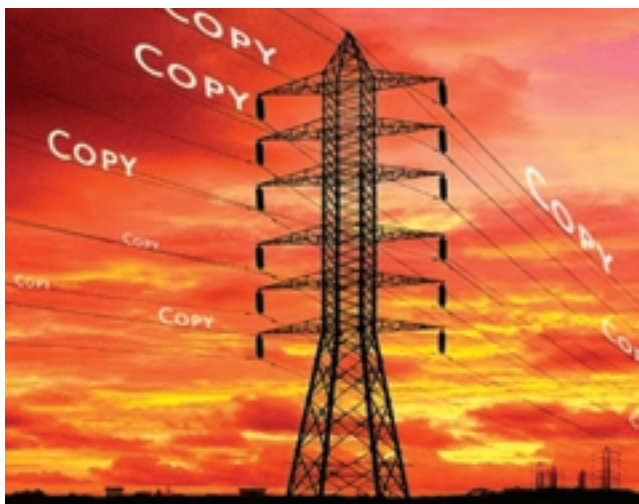
Wyoming launched its electronic case filing program last month with online court dockets. Judicial offices plan on loading [court reporter transcripts](#) and criminal files this spring. When the program is completed at about the end of the year, Wyoming would be the first state to have [completely electronic judicial filings](#).

## The Internet is a Copy Machine

*The following is a reprint from Kevin Kelly's blog *The Technium*, [www.kk.org/thetechnium](http://www.kk.org/thetechnium). While the article was not specifically written for court reporters and is the opinion of the author and not necessarily CCRA, we've highlighted in yellow some very interesting points. Look for the red/bold/italicized portions that have been inserted into the article to emphasize the portions that apply to the reporting industry as we fight for our copy sales.*

The Internet is a copy machine. At its most foundational level, it copies every action, every character, every thought we make while we ride upon it. In order to send a message from one corner of the Internet to another, the protocols of communication demand that the whole message be copied along the way several times. IT companies make a lot of money selling equipment that facilitates this ceaseless copying. Every bit of data ever produced on any computer is copied somewhere. The digital economy is thus run on a river of copies. Unlike the mass-produced reproductions of the machine age, these copies are not just cheap, they are free.

Our digital communication network has been engineered so that copies flow with as little friction as possible. Indeed, copies flow so freely we could think of the Internet as a super-distribution system, where once a copy is introduced it will continue to flow through the network forever, much like electricity in a superconductive wire. We see evidence of this in real life. Once anything that can be copied is brought into contact with Internet, it will be copied, and those copies never leave. Even a dog knows you can't erase something once it's flowed on the Internet.



This super-distribution system has become the foundation of our economy and wealth. The instant reduplication of data, ideas, and media underpins all the major economic sectors in our economy, particularly those involved with exports — that is, those industries where the US has a competitive advantage. Our wealth sits upon a very large device that copies promiscuously and constantly.

Yet the previous round of wealth in this economy was built on selling precious copies, so the free flow of free copies tends to undermine the established order. If reproductions of our best efforts are free, how can we keep going? To put it simply, how does one make money selling free copies?

I have an answer. The simplest way I can put it is thus:

- When copies are super abundant, they become worthless.
- When copies are super abundant, stuff which can't be copied becomes scarce and valuable.
- When copies are free, you need to sell things which cannot be copied.

Well, what can't be copied?

There are a number of qualities that can't be copied. Consider "trust." Trust cannot be copied. You can't purchase it. Trust must be earned, over time. It cannot be downloaded. Or faked. Or counterfeited (at least for long). If everything else is equal, you'll always prefer to deal with someone you can trust. So trust is an intangible that has increasing value in a copy saturated world.

There are a number of other qualities similar to trust that are difficult to copy, and thus become valuable in this network economy. I think the best way to

*continued on Page 9*



# The Internet is a Copy Machine

*(continued from Page 8)*

examine them is not from the eye of the producer, manufacturer, or creator, but from the eye of the user. We can start with a simple user question: why would we ever pay for anything that we could get for free? When anyone buys a version of something they could get for free, what are they purchasing?

From my study of the network economy I see roughly eight categories of intangible value that we buy when we pay for something that could be free.

In a real sense, these are eight things that are better than free. Eight uncopyable values. I call them “generatives.” A *generative* value is a quality or attribute that must be generated, grown, cultivated, and nurtured. A generative thing can not be copied, cloned, faked, replicated, counterfeited, or reproduced. It is generated uniquely, in place, over time. In the digital arena, generative qualities add value to free copies, and therefore are something that can be sold.

## Eight Generatives Better Than Free

**Immediacy** — *[REALTIME]* Sooner or later you can find a free copy of whatever you want, but getting a copy delivered to your inbox the moment it is released — or even better, produced — by its creators is a generative asset. Many people go to movie theaters to see films on the opening night, where they will pay a hefty price to see a film that later will be available for free, or almost free, via rental or download. Hardcover books command a premium for their immediacy, disguised as a harder cover. First in line often commands an extra price for the same good. As a sellable quality, immediacy has many levels, including access to beta versions. Fans are brought into the generative process itself. Beta versions are often de-valued because they are incomplete, but they also possess generative qualities that can be sold. Immediacy is a relative term, which is why it is generative. It has to fit with the product and the audience. A blog has a different sense of time than a movie, or a car. But immediacy can be found in any media.

**Personalization** — *[Min-U-Script, E-Transcript, etc.]* A generic version of a concert recording may be free, but if you want a copy that has been tweaked to sound perfect in your particular living room — as if it were preformed in your room — you may be willing to pay a lot. The free copy of a book can be custom edited by the publishers to reflect your own previous reading background. A free movie you buy may be cut to reflect the rating you desire (no violence, dirty language okay). Aspirin is free, but aspirin tailored to your DNA is very expensive. As many have noted, personalization requires an ongoing conversation between the creator and consumer, artist and fan, producer and user. It is deeply generative because it is iterative and time consuming. You can't copy the personalization that a relationship represents. Marketers call that “stickiness” because it means both sides of the relationship are stuck (invested) in this generative asset, and will be reluctant to switch and start over.

**Interpretation** — *[Troubleshooting Realtime, Creative Estimating of Fees]* As the old joke goes: software, free. The manual, \$10,000. But it's no joke. A couple of high profile companies, like Red Hat, Apache, and others make their living doing exactly that. They provide paid support for free software. The copy of code, being mere bits, is free — and becomes valuable to you only through the support and guidance. I suspect a lot of genetic information will go this route. Right now getting your copy of your DNA is very expensive, but soon it won't be. In fact, soon pharmaceutical companies will PAY you to get your genes sequence. So the copy of your sequence will be free, but the interpretation of what it means, what you can do about it, and how to use it — the manual for your genes so to speak — will be expensive.

**Authenticity** — *[Digital signatures, Web vaults, etc.]* You might be able to grab a key software application for free, but even if you don't need a manual, you might like to be sure it is bug free, reliable, and warranted. You'll pay for authenticity. There are nearly an infinite number of variations of the Grateful Dead jams around; buying an authentic

*continued on Page 10*

# The Internet is a Copy Machine

*(continued from Page 9)*

version from the band itself will ensure you get the one you wanted. Or that it was indeed actually performed by the Dead. Artists have dealt with this problem for a long time. Graphic reproductions such as photographs and lithographs often come with the artist's stamp of authenticity — a signature — to raise the price of the copy. Digital watermarks and other signature technology will not work as copy-protection schemes (copies are super-conducting liquids, remember?) but they can serve up the generative quality of authenticity for those who care.

**Accessibility — [Backups, Web storage, Repositories]** Ownership often sucks. You have to keep your things tidy, up-to-date, and in the case of digital material, backed up. And in this mobile world, you have to carry it along with you. Many people, me included, will be happy to have others tend our “possessions” by subscribing to them. We'll pay Acme Digital Warehouse to serve us any musical tune in the world, when and where we want it, as well as any movie, photo (ours or other photographers). Ditto for books and blogs. Acme backs everything up, pays the creators, and delivers us our desires. We can sip it from our phones, PDAs, laptops, big screens from where-ever. The fact that most of this material will be available free, if we want to tend it, back it up, keep adding to it, and organize it, will be less and less appealing as time goes on.

**Embodiment** — At its core the digital copy is without a body. You can take a free copy of a work and throw it on a screen. But perhaps you'd like to see it in hires on a huge screen? Maybe in 3D? PDFs are fine, but sometimes it is delicious to have the same words printed on bright white cottony paper, bound in leather. Feels so good. What about dwelling in your favorite (free) game with 35 others in the same room? There is no end to greater embodiment. Sure, the hires of today — which may draw ticket holders to a big theater — may migrate to your home theater tomorrow, but there will always be new insanely great display technology that consumers won't have. Laser projection, holographic display, the holodeck itself! And nothing gets embodied as much as music in a live performance, with real bodies. The music is

free; the bodily performance expensive. This formula is quickly becoming a common one for not only musicians, but even authors. The book is free; the bodily talk is expensive.

**Patronage — [Client loyalty]** It is my belief that audiences WANT to pay creators. Fans like to reward artists, musicians, authors and the like with the tokens of their appreciation, because it allows them to connect. But they will only pay if it is very easy to do, a reasonable amount, and they feel certain the money will directly benefit the creators. Radiohead's recent high-profile experiment in letting fans pay them whatever they wished for a free copy is an excellent illustration of the power of patronage. The elusive, intangible connection that flows between appreciative fans and the artist is worth something. In Radiohead's case it was about \$5 per download. There are many other examples of the audience paying simply because it feels good.

**Findability — [Web presence]** Whereas the previous generative qualities reside within creative digital works, findability is an asset that occurs at a higher level in the aggregate of many works. A zero price does not help direct attention to a work, and in fact may sometimes hinder it. But no matter what its price, a work has no value unless it is seen; unfound masterpieces are worthless. When there are millions of books, millions of songs, millions of films, millions of applications, millions of everything requesting our attention — and most of it free — being found is valuable.

The giant aggregators such as Amazon and Netflix make their living in part by helping the audience find works they love. They bring out the good news of the “long tail” phenomenon, which we all know, connects niche audiences with niche productions. But sadly, the long tail is only good news for the giant aggregators, and larger mid-level aggregators such as publishers, studios, and labels. The “long tail” is only lukewarm news to creators themselves. But since findability can really only happen at the systems level, creators need aggregators. This is why publishers, studios, and labels (PSL) will never

*continued on Page 11*

# The Internet is a Copy Machine

*(continued from Page 10)*

disappear. They are not needed for distribution of the copies (the Internet machine does that). Rather the PSL are needed for the distribution of the users' attention back to the works. From an ocean of possibilities the PSL find, nurture and refine the work of creators that they believe fans will connect with. Other intermediates such as critics and reviewers also channel attention. Fans rely on this multi-level apparatus of findability to discover the works of worth out of the zillions produced. There is money to be made (indirectly for the creatives) by finding talent. For many years the paper publication TV Guide made more money than all of the 3 major TV networks it "guided" combined. The magazine guided and pointed viewers to the good stuff on the tube that week. Stuff, it is worth noting, that was free to the viewers. There is little doubt that besides the mega-aggregators, in the world of the free many PDLs will make money selling findability — in addition to the other generative qualities.

These eight qualities require a new skill set. Success in the free-copy world is not derived from the skills of distribution, since the Great Copy Machine in the Sky takes care of that. Nor are legal skills surrounding intellectual property and copyright very useful anymore. Nor are the skills of hoarding and scarcity. Rather, these new eight generatives demand an understanding of how abundance breeds a sharing mindset, how generosity is a business model, how vital it has become to cultivate and nurture qualities that can't be replicated with a click of the mouse.

In short, the money in this networked economy does not follow the path of the copies. Rather it follows the

path of attention, and attention has its own circuits.

Careful readers will note one conspicuous absence so far. I have said nothing about advertising. Ads are widely regarded as the solution, almost the ONLY solution, to the paradox of the free. Most of the suggested solutions I've seen for overcoming the free involve some measure of advertising. I think ads are only one of the paths that attention takes, and in the long-run, they will only be part of the new ways money is made selling the free.

But that's another story.

Beneath the frothy layer of advertising, these eight generatives will supply the value to ubiquitous free copies, and make them worth advertising for. These generatives apply to all digital copies, but also to any kind of copy where the marginal cost of that copy approaches zero. (See my essay on **Technology Wants to Be Free.**) Even material industries are finding that the costs of duplication near zero, so they too will behave like digital copies. Maps just crossed that threshold. Genetics is about to. Gadgets and small appliances (like cell phones) are sliding that way. Pharmaceuticals are already there, but they don't want anyone to know. It costs nothing to make a pill. We pay for authenticity and immediacy in drugs. Someday we'll pay for personalization.

Maintaining generatives is a lot harder than duplicating copies in a factory. There is still a lot to learn. A lot to figure out. Write to me if you do.



## Attention Southern California Reporters & Students Coming to your neighborhood May 2008

CCRA is pleased to announce we will be offering an additional NCRA test site in Santa Ana, CA, beginning May 2008. The Santa Ana test site will not be listed in the written registration materials that will be mailed to you by NCRA, but the information is available on NCRA's Web site. <http://ncraonline.org/Testing/default.htm>

Testing will be held at 830 N. Ross Street, Santa Ana, CA, 92701.

You may register online or write in the site code on your registration mailed to NCRA. The site code number is 0521.



# CCRA Adopts NCRA Backup Audio Media Guidelines (BAM)

CCRA is pleased to announce the board has officially adopted the backup audio medium guidelines (BAM) developed by NCRA. Technology is ever-changing, and with those changes new problems arise. In an effort to best utilize the technology available to the reporter, NCRA has developed a comprehensive set of guidelines to guide the reporter in the use of backup audio technology. CCRA encourages the reporters in the state of California to follow these guidelines in their use of audio backup.



## NATIONAL COURT REPORTERS ASSOCIATION Section VII Backup Audio Media Guidelines

Due to the complexities that may arise from the use of different forms of backup audio media, whether analog or digital, NCRA has developed guidelines to aid the court reporter in the use of this technology.

The latest innovation involves technology that has been developed for computer-aided translation (CAT) software, which allows for the simultaneous digital audio recording of judicial proceedings, often referred to as “audio synchronization,” and more commonly known as “backup audio media.”

When using any backup audio medium, the court reporter must comply with any applicable local, state and federal rules and/or laws to ensure the integrity of the record. The court reporter’s duties and responsibilities do not change regarding preservation of the official record and in any respect with regard to: reading back from the stenographic notes (no playback of the recording in lieu of readback); interrupting the proceedings due to the speed of the testimony, unintelligible, and/or simultaneous speakers, etc.

Judicial court reporters frequently use the term “work product” when referring to their backup recordings. “Work product” may be defined as a backup recording made by a court reporter at their discretion, and not otherwise ordered for preservation by any federal, state or local law and/or rule, and is the personal property of the court reporter. There is no public entitlement to these recordings.

The following guidelines address the release of backup audio media.

### **A. Guidelines for Providing Backup Audio Media at the Request of an Attorney or Party to a Proceeding**

1. If the backup audio media is made available to any party in a case, it is the responsibility of the reporter to ensure that no confidential or off-the-record discussions are contained in the released recording.
2. A reporting firm/agency may not require that a reporter produce the backup audio media (unless ordered to do so by a court).
3. If the reporter decides to release the backup audio media, the reporter shall release a copy and not the original (unless ordered otherwise by a court).
4. If the reporter makes available a copy of the backup audio media to one party, the same offer must be made to the other party(ies) to the proceeding.
5. Reporters should check all applicable local, state and federal laws, rules and regulations to ensure that creating a backup audio media is in compliance with those laws, rules and regulations.

*continued on Page 10*

# CCRA Adopts NCRA Backup Audio Media Guidelines (BAM)

(continued from Page 12)

6. If a reporter uses backup audio media, it should be preserved upon request by any party to the proceeding for the same period of time for which the reporter's notes are preserved. The reporter may request that the party seek a court order before making it available.

## B. Guidelines for Offering Backup Audio Media to Parties as a Value-Added Service

1. If the reporter or member offers backup audio media as a value-added service, all parties should be advised prior to the start of the proceeding.
2. If the backup audio media is provided as a value-added service, it is the responsibility of the reporter to ensure that such sound recording technique does not distort the oral proceedings and that no confidential or off-the-record discussions are contained in the released recording.
3. If a reporter or member offers backup audio media as a value-added service, the reporter shall provide a copy to the requesting parties and preserve the original.
4. If the reporter or member makes available a copy of the backup audio media to one party, the same offer must be made to the other party(ies) to the proceeding.
5. Reporters and members should check all applicable local, state and federal laws, rules and regulations to ensure that creating a backup audio media is in compliance with those laws, rules and regulations.



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# CR Board Approves Legislative Language re Firm Responsibility

By Sheri Turner, President-Elect, VP Freelance

On February 5, 2008, I attended the meeting of the Court Reporters Board, where one of the topics of discussion was the proposed legislative language regarding reporting firm responsibility, which was previously approved and submitted by the CRB task force on firm accountability. As background, this is an item that has been on the CRB strategic plan for quite some time now, as they have been gathering information and directing a task force to look into the situation.

The problem has arisen from the fact that especially since the enactment of the Code of Professional Conduct, there exists inequity within the reporting community because the CRB only has disciplinary authority over individual licensees, reporters, who should be subject to discipline for infractions of the laws, regulations and statutes, including the Code of Professional Conduct. If a reporting firm is not abiding by the same rules and regulations, there is no provision at this time for disciplinary action to be taken against the reporting firm or entity, thus creating an unequal or unlevel playing field, if you will, or unfair competition between a reporting firm that may be owned by a non-reporter and a reporter or reporter-owned firm who may be competing for the same business. In the nine months since the enactment of the Code of Professional Conduct, the CRB has received over 20 complaints regarding firms' conduct, mostly relating to the Code of Professional Practice.

In order to eliminate the inequity of the present situation, some legislative action on the part of the CRB will be taken. The following language was approved by the Board and adopted to put forward in a legislative effort this year:

## **Business and Professions Code 8016. Necessity of certificate; exceptions**

*(New paragraph added to existing section)*

*A corporation, firm, partnership, or sole proprietorship providing or arranging for shorthand reporting services shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect which pertains to shorthand reporters or shorthand reporting. In conducting its practice it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under this chapter.*

While CCRA would like to see stronger language, we are pleased to see the CR Board at least move in this direction in an effort to create a level playing field for all reporters and reporting firms. We have provided a letter of support, offered suggested language for their consideration, and offered the services of our lobbyist, Jim Cassie, who is working with the Board to procure an author for the legislation and take the necessary steps to try to get it passed this year. The CCRA Board of Directors will be meeting in March to further discuss this bill. We will keep you apprised of further developments.

We appreciate the Court Reporters Board and all their hard work and efforts in maintaining the professionalism and quality of the reporting industry in California.



## **KERN COUNTY LABOR DISPUTE SETTLED**

After a long and contentious dispute, the employees of Kern County voted to ratify their contract with a 69% vote. The final contract included salary increases at the rate of 4.5% for year one and 3% for year two, three. Realtime differential will be at the rate of 3%, plus an additional 4% for CRR certification.

# Depositions and the Business Records Subpoena

*By Kelly Roemer, CCRA Board of Directors*

Recently we had a client (Counsel A) call our office and ask if we had a code section that we could cite to opposing counsel (Counsel B) stating that a deposition transcript cannot be subpoenaed as a business record. Counsel B wanted transcripts from a related case and asked Counsel A if they could provide them with a free copy of the transcript. Unfortunately, we all know that this happens more than we would like. I told my client that I would research the matter and get back to her. I thought how nice my client was for not providing opposing counsel with a free copy of the deposition transcript.

As time went on, I found out that there was more to the story. Our client, Counsel A, knew that there was a protective order in place regarding the deposition transcripts and did not want Counsel B to acquire the transcripts from them. Our client did not inform us of such protective order. Counsel B stated that they would just subpoena the transcripts from our office under a Business Records Subpoena. After researching this, I found out that there is, in fact, case law (**Urban Pacific Equities Corp. v. Superior Court (1997) 59 Cal.App.4th 688, 692**) regarding this matter and that our deposition transcripts are our work product and cannot be subpoenaed as business records. I cited the case law to our client, and she forwarded that on to Counsel B. As a firm owner/manager, I was proud of myself for the research I had done and the very satisfied client that I had.

The next day there was an order on our Web site for a transcript request from a nonclient. I recognized the name of the case and realized that now this same attorney is trying to obtain a copy from our reporting firm. I called the law office (Counsel B) and let the secretary know that I would have to notify all counsel in the case pursuant to **CCP 2025.570**, subsection (a), (b) and (c), that the parties in the case have a chance to file a protective order within 30 days. At this point, I had no idea there was a protective order in place. Counsel B asked if I could expedite this matter, that it was very important. I told him that I would have to notify all counsel and that I would try to shortcut things and do it electronically.

Much to my surprise, I heard from counsel in the related case in two days. He stated that there was a

protective order in place and absolutely do not sell Counsel B a copy of the transcript; that there was confidential information in the transcript.

This is a reminder to all firm owners that when someone orders a transcript of a deposition and they are not a party to the case, please use due diligence and send out notification to all counsel in the case asking if it's okay to sell a copy of the transcript.

The entire ruling in the case of **Urban Pacific Equities Corp. vs. Superior Court of Los Angeles County, Steiner & Libo, et al.**, can be found on the CCRA Web site.

[www.cal-ccra.org](http://www.cal-ccra.org)



## Punctuation –

*By Margie Wakeman-Wells*

There are several additions that litigants add to testimony that have nothing to do with the content of the sentence. These take on many different forms:

sitting here today  
off the top of my head  
based on what I observed  
as you see it  
in your opinion  
according to the judge  
in his judgment  
to your best recollection

These are always considered to be parentheticals and are always surrounded by punctuation, no matter where they occur.

*And, sitting here today, do you have an opinion on this?*

*He was incapable of fulfilling these jobs, in my opinion.*

*So, as he sees it, it was too much to do.*

*They were, according to the statistics, right on track.*



# Offshore Transcription Warning

VIENNA, Va., — A growing amount of legal and medical record transcribing is being offshored to foreign countries, posing a new risk of identity theft and disclosure of confidential information of U.S. citizens, the National Court Reporters Association (NCRA) warned today.

In a “State of Court Reporting” interview, NCRA Executive Director Mark Golden said the practice of transcribing court and medical information overseas is growing, with stringent American privacy and information security rules often sacrificed in an effort to find the cheapest transcribing vendors.

In one instance, Golden noted, transcriptions for an Indiana jury trial were prepared in Hong Kong without the knowledge of the judge or the court and in violation of administrative rules. In another case, a Philippine transcription subcontractor threatened to post medical records of U.S. patients on the Internet unless she was paid in a timely fashion for her services.

Golden said: “Because they are the ‘guardians of the record,’ NCRA members and other affiliated court reporters have traditionally and historically continued

to place the highest value on the accuracy, impartiality, and confidentiality of the records they are creating. Once that content has gone outside the borders of the United States and is being prepared by individuals overseas, we have serious concerns as to whether the same level of scrutiny that Americans are afforded here will be provided abroad to protect that confidential information.”

As more and more legal and medical content goes to areas with substantial English-speaking populations, such as the Philippines, Hong Kong, and India, NCRA members worry that privacy and information security will be impossible to guarantee.

“The type of work that court reporters handle every day is extraordinarily sensitive and governed often by local court rules and federal regulations such as the HIPAA Privacy Act, which would essentially lose their impact once the product goes offshore,” Golden said.

Audio from the interview is posted in the Media Room of the NCRA Web site at <http://www.NCRAonline.org>.



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## Judicial Council Request for Comment

The Judicial Council has sent out a request for comment in regards to amendments to Rule 2.253, Court order requiring electronic service or filing.

The Judicial Council states:

“Rule 2.253 (Court order requiring electronic service or filing) this rule would be amended to clarify that the court, in an appropriate type of case, may order all documents to be served electronically, or filed electronically, or both served and filed electronically.”

CCRA has submitted the following letter to the Judicial Council.



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949.715.6931 fax  
[www.cal-ccra.org](http://www.cal-ccra.org)*

January 23, 2008

Judicial Council  
Attn. Camilla Kieliger  
455 Golden Gate Ave.  
San Francisco, CA 94102

Dear Ms. Kieliger,

CCRA applauds the Judicial Council's efforts to more fully utilize available technology. However, CCRA is concerned that the proposed language is broad enough that some trial courts could interpret it to include deposition transcripts and official reporter transcripts. If that is not the intent of the proposal, CCRA requests that that be indicated in the rule.

If that is the intent of the proposal, there are a number of issues that have been identified (See the Reporting of the Record Task Force report) that remain unresolved: Ownership and sale of copies of transcripts; compatibility with the various CAT software programs utilized by deposition and official reporters; potential added cost of producing transcripts; certification of electronically filed transcripts; labor issues created by a change of working conditions.

CCRA would oppose this proposal unless and until the issues enumerated above and any other potential issues have been adequately addressed. In order to address these issues, a working group of some sort that includes all stakeholders, including labor, would need to be organized.

CCRA requests that the current proposal be modified to indicate that this rule does not apply to deposition or official reporter transcripts.

Respectfully submitted,

Lesia Mervin, President  
California Court Reporters Association

## Ask a Reporter

The Ask a Reporter feature of our Web site allows members to ask questions of the CCRA Board and receive a written response within 48 hours.

### Question:

A common theme has been emerging lately in our Ask A Reporter feature on our website: Can a job action taken during labor negotiations be used to affect your CSR license? Many counties in California, mine included, are in negotiations or soon will be. Permit me to paraphrase the response to this burning question now.

**ANSWER:** Thank you for using the Ask a Reporter service. I understand court employees in (Name of county redacted) are experiencing some challenges in convincing Management to make better choices and that is probably what is concerning you.

I reviewed the California Code of Regulations (copied below) and find nothing that addresses the situation you find yourself in. In other words, the Professional Standards of Practice enacted by the Court Reporters Board addresses your honesty, your competence, your (hopefully) lack of bias, gifts, etc., but not labor disputes. I believe that if you are involved in a union-sanctioned job action, you are protected from retaliation, and I would think anyone complaining to the CRB as a result would be retaliating, which could be construed as an unfair labor practice.

Here is what the Court Reporters Board's Professional Standards of Practice requirements are:

**“CALIFORNIA CODE OF REGULATIONS  
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
DIVISION 24. CERTIFIED SHORTHAND REPORTERS BOARD  
ARTICLE 8. DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES**

**§ 2475. Professional Standards of Practice.**

(a) Consistent with any action that may be taken by the Board pursuant to Sections 8025 and 8025.1 of the Code, the Board may cite or discipline any certificate holder, including suspending, revoking, or denying the certification of a certified shorthand reporter, for violation of professional standards of practice. (b) Every person under the jurisdiction of the Board who holds a license or certificate, or temporary license or certificate, shall comply with the following professional standards of practice:

- (1) Make truthful and accurate public statements when advertising professional qualifications and competence and/or services offered to the public.
- (2) Maintain confidentiality of information which is confidential as a result of rule, regulation, statute, court order, or deposition proceedings.
- (3) Perform professional services within the scope of one's competence, including promptly notifying the parties present or the presiding officer upon determining that one is not competent to continue an assignment. A licensee may continue to report proceedings after such notification upon stipulation on the record of all parties present or upon order of the presiding officer.
- (4) Comply with legal and/or agreed-to delivery dates and/or provide prompt notification of delays.

*continued on Page 19*



# Ask a Reporter

*(continued from Page 18)*

- (5) In addition to the requirements of Section 2025.220(a)(5) of the Code of Civil Procedure, promptly notify, when reasonably able to do so, all known parties in attendance at a deposition or civil court proceeding and/or their attorneys of a request for preparation of all or any part of a transcript, including a rough draft, in electronic or paper form. No such notification is necessary when the request is from the court.
- (6) Act without bias toward, or prejudice against, any parties and/or their attorneys.
- (7) Not enter into, arrange, or participate in a relationship that compromises the impartiality of the certified shorthand reporter, including, but not limited to, a relationship in which compensation for reporting services is based upon the outcome of the proceeding.
- (8) Other than the receipt of compensation for reporting services, neither directly or indirectly give nor receive any gift, incentive, reward, or anything of value to or from any person or entity associated with a proceeding being reported. Such persons or entities shall include, but not limited to, attorneys, employees of attorneys, clients, witnesses, insurers, underwriters, or any agents or representatives thereof. Exceptions to the foregoing restriction shall be as follows: (A) giving or receiving items that do not exceed \$100 (in the aggregate for any combination of items given and/or received) per above-described person or entity per calendar year; or (B) providing services without charge for which the certified shorthand reporter reasonably expects to be reimbursed from the Transcript Reimbursement Fund, Sections 8030 et seq. of the Code, or otherwise for an "indigent person" as defined in Section 8030.4(f) of the Code.

*Note: Authority cited: Section 8007, Business and Professions Code. Reference: Sections 8025, 8025.1 and 8030, Business and Professions Code.*

## HISTORY

1. New section filed 1-11-2007; operative 2-10-2007 (Register 2007, No. 2)."

For the uninitiated, the National Labor Relations Act (NLRA) was passed in 1935 and gives employees the right to join unions, bargain collectively and strike. The National Labor Relations Board (NLRB) is the enforcement arm for the NLRA. California Government Code section 71600, a chapter of the Trial Court Employees Employment Protection and Governance Act, specifically defines the relationship between the court and the union.

Collective bargaining is negotiations between representatives of the union/employee association and the employer to come to agreement on wages, benefits and hours and working conditions.

A job action is employees acting together to pressure an employer to grant a bargaining concession or take a certain action. Common types include a slowdown, sickouts and strikes.

A strike is a temporary stoppage of work by a group of employees, usually to demonstrate that they are serious about a grievance or demand.

An unfair labor practice (ULP) is a violation of the NLRA. Legal charges concerning unfair labor practices are filed with the NLRB, which can then hold hearings on complaints and assess penalties against violators.

*continued on Page 20*

## Ask a Reporter

*(continued from Page 19)*

**A word of caution here:** If you are an official reporter, you function both as an employee and an independent contractor. Going on strike does not relieve you of your obligations as an independent contractor to attorneys or private parties who have ordered transcripts, nor does it suspend your responsibilities to the Appellate or Supreme Court. Transcripts should be prepared and filed timely. Should you experience difficulties when filing a transcript on appeal, get a time-stamped receipt, if possible, or make an entry in your daily planner. At the very least, contact your DCA's clerk's office and let them know the situation and that the transcript has been delivered.

Finally, please remember the question addressed in this article concerns your professional license. A strike is a serious action and is not risk free, as President Ronald Reagan taught us all when the air traffic controllers went on strike in 1981.

Respectfully submitted,  
Tom Pringle  
CCRA Past President



## The Gadget Guy

*Eric Johnson, CSR, RPR*

Eric Johnson is owner of Depobook Court Reporting Services and Depobook Court Reporting Products, located in Modesto, California.

How many times have you sat through a deposition or trial while the attorneys rapidly quoted from books, documents, or medical charts that you may not have future access to? Wouldn't you love to have those documents at your fingertips later while editing the transcript? Well, now you can. With the DocuPen from Planon, it's as easy as swipe-and-go. Their battery operated (rechargeable) pen-sized hand-held scanner will allow you to quickly scan as many as 100 pages into the internal memory, to be downloaded later right into your computer using PaperPort software (included). The DocuPen will allow you to scan pages from books, photographs, business cards, or any other nearly-flat surface.



The R-700 is a black-and-white version which retails for around \$200 and the color version (RC-800) will set you back about \$350, but does have an expandable memory slot for the insatiably scanning stenographer.

Have a question or product suggestion? Email me at [eric@depobook.com](mailto:eric@depobook.com)



# Briefs Online

*Doreen Perkins*

Looking for a quick brief for those hard to write words or common phrases? If you have a word or phrase that you would like a brief form for, let me know, and I will publish your requested brief in the next CCRA Online. If you have briefs that you would like to share with our members, please send them to Doreen Perkins, [CortReptr1@aol.com](mailto:CortReptr1@aol.com) or 1100 Van Ness, Dept. 50, Fresno, CA 93724-0002

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# ER Proposal in California Courts

Information has come to our attention that could directly impact the jobs of all official reporters in California. There is no need to panic, but we all must stay informed on what is happening with the state budget crisis as it relates to the court system.

On February 21, the Legislative Analyst (the legislature's nonpartisan fiscal and policy advisor) came out with her own budget proposal in response to the governor's proposal of a 10% cut across the board for all departments. Unfortunately, she recommends replacing official court reporters with electronic recording.

CCRA is in the process of gathering information and implementing a strategy to address the situation. Watch for important updates in the coming weeks.

The LAO's ER proposal is listed below.

The entire LAO analysis can be found here: [http://www.lao.ca.gov/analysis\\_2008/crim\\_justice/cj\\_anl08003.aspx#zxee\\_link\\_1\\_1202846137](http://www.lao.ca.gov/analysis_2008/crim_justice/cj_anl08003.aspx#zxee_link_1_1202846137)



## Cost-Saving Options for the Judicial Branch

***The Governor's budget proposes an unallocated reduction of \$246 million in General Fund support for the Judicial Branch. The Legislature should also evaluate the impact of spending reductions on court services.***

## Electronic Court Reporting

***The state has the option of saving a substantial amount of funding, and of better meeting the reporting needs of the courts, if it transitioned from court reporters to electronic methods of recording court proceedings. This approach could result in net state savings of \$13 million in 2008-09 that could grow over the subsequent fiscal years to as much as \$111 million annually.***

**Background.** Current law requires the use of certified shorthand reporters to create and transcribe the official record of most court proceedings. Typically, the court reporter is the sole owner of all the equipment necessary to perform his or her duties, including the stenotype machine, computer-aided software for transcription, and all the elements involved in producing the transcript. Also, for the most part, the court reporter transcribes the record on his or her own time, outside of the eight-hour work day. For these reasons, the transcripts are "owned" by the court reporter and must be purchased by the court. In addition to paying for the first copy, the court must also pay a reduced rate for additional copies. In 2006-07, the total amount spent on such transcripts was nearly \$26 million, while the total amount spent on salaries and benefits for court reporters was about \$202 million.

In contrast, electronic court reporting involves using video and or audio devices to record the statements and testimony delivered in the courtroom. Depending on the system used, a monitor may be assigned to oversee the proper functioning of the equipment and provide replays of statements upon request of the judge, though some systems are available that can be used without a monitor. Following a proceeding, typed transcripts can be created by transcription services for use by court staff, attorneys, or in any subsequent appeal. However, the actual recordings created during the proceeding can also be used in a manner similar to a transcript, and the sales of these recordings can generate the court additional revenue.

## Electronic Reporting a Well-Established, Cost-Effective Practice.

Electronic court reporting is in widespread use in many state and Federal courts, including the U.S. Supreme Court. Moreover, electronic court reporting was demonstrated to be cost-effective in a multiyear pilot study carried out in California courts between 1991 and 1994. Chapter 373, Statutes of 1986 (AB 825, Harris), enacted a four-year demonstration project to assess the costs, benefits, and acceptability of using audio and video reporting of the record except in criminal or juvenile proceedings. The project found significant savings of

*continued on Page 23*

# ER Proposal in California Courts

*(continued from Page 22)*

\$28,000 per courtroom per year in using audio reporting, and \$42,000 per courtroom per year using video, as compared to using a court reporter. For a more complete discussion of electronic court reporting, its use in other states, and the results of the Judicial Council study, please see the *Analysis of the 2003–04 Budget Bill* (page D–22).

**Electronic Court Reporting May Help Address Short Supply of Court Reporters.** A persistent problem facing the courts is the short supply of certified shorthand reporters, who, by statute, are the only individuals qualified to make transcripts of most trial court proceedings. In 2005, the Judicial Council released the findings of its Reporting of the Record Taskforce. The taskforce indicated, based on comments from trial court officials, that the pool of court reporters has been dwindling since the mid–1990s and is insufficient to meet their needs.

According to the Bureau of Labor Statistics, it can take anywhere from two to three years to become proficient in court reporting techniques. By statute, an individual can only become a certified shorthand reporter if he or she passes an examination administered by the Court Reporters Board of California. Eligibility for the exam is limited to those who have some experience, or have passed the state hearing reporters examination, or those who have past certification from one of several different sources. The number of people passing the exam has declined since the mid–1990s. In November 1995, a high of 309 individuals successfully passed the examination required to become a certified shorthand reporter, while in October 2007 only 38 achieved passing scores. The dwindling supply of reporters is compounded, as is pointed out in the report, by the fact that those passing the exam may choose to seek work outside of the courts in professions like closed captioning, deposition reporting, or in providing translation services to the hearing-impaired.

In contrast, the Bureau of Labor Statistics indicates that electronic court reporters usually learn their skills on the job. There is currently no certification

requirement for electronic court reporters in California. As a result of these factors, the pool of eligible candidates for electronic court reporting would likely be both larger and more easily expanded than the pool of eligible candidates for court reporting.

**Electronic Court Reporting Could Save the State Millions Annually.** Based upon our past review of other states and the pilot project mentioned above, we believe that electronic reporting is a reliable and cost-effective alternative to the system of court reporting currently used in California’s trial courts. Our inflation-adjusted analysis of the pilot study indicates that, if electronic court reporting had been operational in 2006, the state would have saved nearly \$89 million on trial court operations. This represents an estimated savings of nearly 60 percent for reporting activities. Even greater savings may now be possible with more modern technology that has become available since the California pilot projects. According to estimates from the 9th Circuit Court of Florida, the cost of providing all 20 Florida circuit courts with court reporters is around \$36 million, but would be only \$5 million if those courts used electronic reporting — a potential savings of 86 percent.

**Legislative Option.** To both address the shortfall in the supply of court reporters and reduce state costs for trial court operations, we recommend that the Legislature consider the option of directing the courts to begin now to implement electronic court reporting in California courtrooms.

In order to allow transition time, one approach would be to direct that 20 percent of courtrooms in California switch to electronic court reporting on an annual basis. After factoring in the estimated one-time costs of the equipment, our analysis indicates that this may result in nearly \$13 million in savings during 2008–09. By 2010–11, annual savings from the switchover to electronic reporting could reach \$53 million. If electronic court reporting were fully operational in all California courtrooms, we estimate that savings could reach \$111 million on an annual basis. This option would require a statutory change.

*continued on Page 24*

# ER Proposal in California Courts

(continued from Page 23)

**Figure 3**  
**LAO Options for Cost Savings in the Judicial Branch**  
(In Millions)

Option	2008-09 Fiscal Impact	Annual Ongoing Savings <sup>a</sup>
Suspension of SAL <sup>b</sup>	\$126	\$126
Electronic court reporting	13	111
Court security	—	100
Delays in judicial appointments	15	—
Civil filing fee increase	21	21
<b>Totals</b>	<b>\$175</b>	<b>\$358</b>

<sup>a</sup> When fully implemented.  
<sup>b</sup> State Appropriations Limit.



## Classified Ads

For Sale:

Stentura 8000LX. Includes extra battery, realtime cables, laptop table with tripod. \$2,200.00.

Total Eclipse Software, version 4.1, under continuous maintenance. \$2,500.00.

Contact Joanne Bergren, (760) 772-0013.

## Eclipse Tip – No. 4

Steven Kosmata — San Diego Superior Court, Official Reporter

Dear Eclipsees!

One of the many joys of heading up a users' group, as I do in San Diego, is you have feedback and often a little gem of an idea shows up. Well, following my last meeting, one of our members, Melanie, shared with me how she used her Eclipse dictionary to make her writing easier, and I'm excited to share this idea with you.

Basically the tip is she went into her dictionary and had pulled up all words that she wrote with at least three strokes. She then took her 10 most written words and found briefs for every one of them. What a great idea and use of your dictionary search engine.

So let's try it. Open Eclipse, hit F-9, and hit "enter." Once you are in your main dictionary, with hyperkeys on, hit your "f" key, which brings up your search engine. Under the "Steno Shortcuts" search "at least three strokes," and then hit okay.

When your search is complete, put your cursor in the box that has a "#" and click once, and you'll see a

down arrow appear; then hit the "ctrl" and "page down" buttons.

What you are going to discover in the "#" column are numbers. And the higher the number, the more times you've written that word.

Now, my personal suggestion is find a good friend that has Briefs Encountered and find briefs for those words or go online and purchase the CD's at [www.white-boucke.com/briefencounters](http://www.white-boucke.com/briefencounters). Purchase both the English and Medical CD's. This program is so easy to use when I have just a few seconds to open the program and pull up a brief.

Now, write down your words and new briefs for each one, and you'll be amazed how much time you've given yourself when things get in a pinch, and you're writing will improve as well. It's a win-win!!

If you have good tips, as was shared with me after my meeting, please email so that I can share it all my fellow Eclipsees friends — [eclipse-sd@att.net](mailto:eclipse-sd@att.net).





# Legislation Update

By Sandy Bunch VanderPol, CSR #3032

**AB 582 (Evans [D]) Court transcription fees.**

**Status:** 06/21/2007-Referred to Com. on JUD.

**Current Location:** 06/21/2007-S JUD.

**Summary:** This bill is sponsored by SEIU with CCRA and COCRA actively working with SEIU. This bill would provide for an increase in the folio rates for transcripts prepared by the official court reporter and official reporter pro tempore. This bill would also create a statewide uniform transcript format.

**AB 863 (Davis [D]) Los Angeles County Superior Court employees.**

**Status:** 09/05/2007-To inactive file on motion of Assembly Member De Leon.

**Current Location:** 09/05/2007-A  
INACTIVE FILE

**Summary:** Existing law provides that each trial court may establish a salary range for each of its employee classifications, and considerations shall include, but are not limited to, local market conditions and other local compensation-related issues such as difficulty of recruitment or retention. This bill would require the Los Angeles County Superior Court to pay each employee in a bargaining unit represented by any specified employee organization an amount equivalent to the additional amount the employee would have received if the reclassification raise the employee received on October 1, 2005, had been retroactive to August 1, 2005. The bill would also provide that the Legislature urges the Los Angeles County Superior Court to act in a responsible manner and disburse the funds, which are currently held by the Administrative Office of the Courts, as directed for the purposes of paying the amounts prescribed in this act.

**AB 1545 (Eng [D]) Professions and vocations.**

**Status:** 02/13/2008-To inactive file on motion of Senator Ducheny.

**Current Location:** 02/13/2008-S  
INACTIVE FILE

**Summary:** This bill would provide for the Court Reporters Board of California, in the Department of Consumer Affairs, and gives them specified powers and duties, including providing them the authority to appoint an executive officer, as specified. Existing law also provides for the regulation of tax preparers, as specified. These provisions of law become inoperative on July 1, 2008, and are repealed on January 1, 2009. This bill would extend the inoperative date of these provisions to July 1, 2009, and the date upon which they are repealed to January 1, 2010. Other consumer boards are included in this bill.

**AB 1869 (Anderson [R]) State boards and commissions: reorganization.**

**Status:** 02/06/2008-From printer. May be heard in committee March 7.

**Current Location:** 02/04/2008-A PRINT

**Summary:** Existing law establishes various boards and commissions in state government. This bill would declare the intent of the Legislature to effect the changes proposed by the California Performance Review to eliminate and consolidate various state boards and commissions, including the Court Reporters Board.

**AB 2189 (Karnette [D]) Shorthand reporters: continuing education requirements.**

**Status:** 02/21/2008-From printer. May be heard in committee March 22.

**Current Location:** 02/20/2008-A PRINT

**Summary:** Existing law provides for the certification and regulation of shorthand reporters by the Court Reporters Board of California in the Department of Consumer Affairs, and provides for the regulation of shorthand reporting schools by the board.

*continued on Page 26*

*(continued from Page 25)*

Existing law provides for the renewal of a shorthand reporter's certificate if specified requirements are met. This bill would require the board to establish, on or before July 1, 2009, minimum approved continuing education requirements for renewal of a shorthand reporter's certificate, with certain exceptions, and would require the board to establish a procedure for approving providers of continuing education courses, as specified.

**AB 2193 (Tran [R]) Civil discovery: out-of-state proceedings.**

**Status:** 02/21/2008-From printer. May be heard in committee March 22.

**Current Location:** 02/20/2008-A PRINT

**Summary:** Existing law permits a California court, by subpoena, to compel a natural person to submit to oral or written deposition, and to produce documents and things, in connection with actions pending outside of California. Existing law specifies the circumstances pursuant to which this power will be exercised, including when the out-of-state court has issued a mandate, a writ, and a letter of request. This bill would repeal these provisions and would enact the Interstate and International Depositions and Discovery Act. The provisions of the bill, beginning January 1, 2010, would apply to an organization as well as a natural person, and would apply to depositions for the production of tangible items and inspection of premises, in addition to those requiring testimony. The bill would broaden the range of documents issued by an out-of-state court pursuant to which a California court would be authorized to issue a subpoena in this regard. The bill would establish a process for obtaining a subpoena, which would require payment of a fee, to be deposited in the Trial Court Trust Fund, and submitting the subpoena of the out-of-state court with a specified

application. The bill would provide that a party is not required to retain a local attorney to depose a witness in these circumstances. The bill would permit an active member of the California State Bar to who is retained by a party to an out-of-state proceeding to issue a deposition subpoena, as specified. The bill would provide a process for the resolution of a dispute regarding discovery conducted in California in connection with an out-of-state proceeding, and a request for relief in this regard would be filed in the superior court in which the discovery is sought with payment of specified fees. The bill would permit a party to appeal court orders in connection with a dispute by extraordinary writ to the appropriate court of appeal. The bill, beginning January 1, 2009, would require the Judicial Council to prepare an application form, and to either create subpoena forms, or modify existing subpoena forms, for issuance pursuant to its provisions.

**AB 2884 (Portantino [D]) Court reporters: rough draft transcript.**

**Status:** 02/22/2008-Introduced. To print.

**Current Location:** 02/22/2008-A PRINT

**Summary:** Existing law provides that the report of the official reporter or official reporter pro tempore of any court, as specified, when transcribed and certified as being a correct transcript of the testimony and proceedings in a case, is prima facie evidence of that testimony and proceedings. Existing law specifically provides that the report, when prepared as a rough draft transcript, shall not be certified and cannot be used, cited, or transcribed as the official certified transcript of the proceedings. Existing law also provides that the rough draft transcript may not be cited or used to rebut or contradict the official certified transcript

*continued on Page 27*

# Legislation Update

*(continued from Page 26)*

and that the production of a rough draft transcript shall not be required. This bill would provide that a “rough draft transcript” includes the instant visual display of testimony for purposes of these provisions.

**AJR 38 (Levine [D]) Training for Realtime Writers Act of 2007.**

**Status:** 08/27/2007-Referred to Com. on JUD.  
**Current Location:** 08/27/2007-A JUD.

**Summary:** This measure would urge the Congress of the United States to enact legislation that would provide competitive grants for training court reporters and closed captioners.

**SB 145 (Corbett [D] ) Court facilities.**

**Status:** 01/07/2008-Placed on inactive file on request of Senator Corbett.  
**Current Location:** 01/07/2008-S  
INACTIVE FILE

**Summary:** Existing law requires the Judicial Council, in consultation with the superior court of each county and the county, to enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than June 30, 2007. Existing law requires counties to remit to the state, for deposit in the Court Facilities Trust Fund, county facilities payments composed of the costs of various items related to court facility operation and maintenance. This bill would extend the deadline for the transfer of responsibility for court facilities to December 31, 2008. The bill would require that any transfer agreement that is executed on or after January 1, 2008, and on or before June 30, 2008, contain a requirement that the county pay an additional amount annually, to be

calculated pursuant to a specified method. The bill would provide that the county is not required to make the additional payment if the county, before January 1, 2008, has submitted a proposed county facilities payment in connection with court facilities. The bill would further require that any transfer agreement that is executed on and after July 1, 2008, contain a requirement that the county facilities payment be calculated pursuant to the greater of 2 specified methods. The bill would make related, conforming changes. This bill contains other related provisions and other existing laws.

**SB 797 (Ridley-Thomas [D]) Professions and vocations.**

**Status:** 01/24/2008-Placed on inactive file on request of Assembly Member Bass.  
**Current Location:** 01/24/2008-A  
INACTIVE FILE

**Summary:** Existing law authorizes the Court Reporters Board to, among other things, appoint an executive officer and employ other employees as may be necessary. These provisions will become inoperative on July 1, 2008, and be repealed on January 1, 2009. This bill would extend those dates, making the provisions inoperative on July 1, 2009, and repealing them on January 1, 2010. Other consumer boards are included in this bill.

**SB 823 (Perata [D]) Private postsecondary education: California Private Postsecondary Education Act of 2007.**

**Status:** 08/31/2007-Hearing postponed by committee. (Refers to 8/30/2007 hearing)  
**Current Location:** 08/31/2007-A APPR.  
SUSPENSE FILE

**Summary:** The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of

*continued on Page 28*

# Legislation Update

*(continued from Page 27)*

instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, INCLUDING PRIVATE COURT REPORTING SCHOOLS, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would provide that the board would generally succeed to the duties assigned to the bureau under the 1989 act. The bill would repeal the California Private Postsecondary Education Act of 2007 on January 1, 2015. This bill contains other related provisions and other existing laws.

**SB 971 (McClintock [R]) Government reorganization: realignment or closure.**

**Status:** 02/01/2008-Failed Deadline pursuant to Rule 61(b)(3). Last locations was APPR. SUSPENSE FILE

**Current Location:** 02/01/2008-S DEAD

**Summary:** This bill would enact the Bureaucracy Realignment and Closure Act of 2009. Beginning on January 1, 2009, the Controller, the Director of Finance, the Legislative Analyst, the Legislative Counsel, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, and the State Auditor would be required to develop recommendations for the closure or realignment of state bureaucracies,

INCLUDING THE COURT REPORTERS BOARD, for consideration by the commission. It would require the commission to independently evaluate the recommendations, conduct 3 public hearings, and, by January 1, 2010, have at least one member of the commission visit each state bureaucracy considered for realignment or closure. This bill would require the commission, not later than July 15, 2010, to submit a report of its final recommendations to the Governor and the Legislature that establishes a list of state bureaucracies that are proposed to be realigned or abolished. It would require the Governor, upon approval of the list of recommendations, to prepare the list as a reorganization plan and to submit the plan to the Legislature under the provisions relating to the Governor's reorganization plans.

**SB 1150 (Corbett [D]) Courts: judgeships.**

**Status:** 02/14/2008-To Com. on JUD.

**Current Location:** 02/14/2008-S JUD.

**Summary:** Existing law specifies the number of judges for the superior court of each county and for each division of each district of the court of appeal. This bill would authorize an unspecified number of additional judges, upon appropriation by the Legislature in the 2008-09 fiscal year, to be allocated to the various county superior courts, pursuant to uniform criteria approved by the Judicial Council.

**SB 1182 (Ackerman [R]) Trial courts: restructuring.**

**Status:** 02/20/2008-To Com. on JUD.

**Current Location:** 02/20/2008-S JUD.

**Summary:** Existing law provides for the restructuring of the trial court system, including the abolition of municipal courts, the unification of those courts with superior

*continued on Page 29*

# Legislation Update

(continued from Page 28)

courts, and state funding of trial courts. This bill would delete provisions that have become obsolete as a result of that trial court restructuring.

**SB 1583 (Corbett [D] ) Employment: independent contractors.**

**Status:** 02/22/2008-Introduced. To Com. on RLS. for assignment. To print.

**Current Location:** 02/22/2008-S PRINT

**Summary:** Under existing law, a person who knowingly enters into a contract for

services that require an independent contractor license with a person who does not meet the burden of proof of independent contractor status, as prescribed, is subject to a civil penalty of \$200 per person so contracted for each day of the contract. This bill would provide that a person who advises another person to treat an individual as an independent contractor to avoid employee status for the individual shall be jointly and severally liable with the employer if the individual is not found to be an independent contractor.

For information concerning this report or the information contained herein, you may contact California Court Reporters Association, Attn. Sandy Bunch VanderPol, CSR #3032, at 65 Enterprise, Aliso Viejo, California 92656, (949) 715-4682 or by e-mail at [RealtimeCSR@calweb.com](mailto:RealtimeCSR@calweb.com).



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