The Deposition Reporter

in this issue:

and much, much more

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Just like a teenager celebrating her milestone birthday, DRA's upcoming 16th Annual Convention in Monterey is a cause for each of us to reflect on the past, look to the future, and have a lot of fun while doing both.

When I think about DRA's earliest days, I'm proud to say that while some things are different than when we first took the freelance community by storm, we are still the same association: still fiercely unwavering in our commitment to protecting and advancing the integrity, professionalism and honor of the freelance deposition reporter. This passion for our profession, it is like our DNA. No matter how much we grow or change on the outside, it is still our blueprint for everything DRA does all day, every day.

DRA continues to be an association of people, not just a name. As anyone who has ever had the pleasure of serving on the Board can tell you, what has always and will always make DRA strong is its people. We continue to recruit great people who have a passion for serving others, and then we give them the freedom to be themselves and to take good care of our members and our profession. The same imagination, ambition, creativity, let's-try-something-new courage that bound together our bold Founders in 1995 continues to be a DRA hallmark. We treat our volunteer Board with the highest respect and truly think of our members as our family.

But, of course, some things are different than in 1995. Like a teenager, we are bigger than when we were born. Back when our 20 founding members banded together, literally driving across the entire state holding meetings and raising funds, we ended our first year with 400 members. Today, that number has more than doubled and, amazingly, during tough economic times, is steadily growing. Our innovative, aggressive advocacy continues to have not just a statewide but a nationwide impact, just as it did when those brave and innovative folks created DRA.

Just like a teenager, DRA spends a lot of time online with its friends and knows instantly what the world thinks, does, and says. We routinely use videos, emails, and social media to reach out to each other in ways that could not have been imagined when a one-page fax sparked a revolution. Sometimes DRA drives a bit fast and tries new ideas that may cause our Founders, just like parents, to shake their heads, but when the dust clears in the end and DRA is back home safe and sound, I know they see the results and can stand proud of the association they brought to life. We may not look just like we did in the '90s (no more shoulder pads for sure!), but the core values that were at the heart of DRA at our first convention in 1997 are the same core values that define us today: Integrity, Leadership, Education. What we do at DRA gives you the freedom to work hard, earn a living, be proud of your career, and rest a little easier, knowing DRA -- the only organization in the nation devoted to you, the freelance deposition reporter -- is right by your side.

As we move through our teen years, we do so still guided by the values of those that created and raised us, but with the enthusiasm, mischievous sparkle in our eye, and optimism of a teenager who knows that our most exciting years and adventures are just around the corner.

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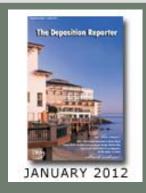
Having had the honor of serving eight years at the DRA Board table, I am so proud to watch DRA "grow up," and I can't wait to see where this teenager will go as it bounds with endless energy into a brilliant future.



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February 24-26, 2012 Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940

The Convention Committee has planned an awesome seminar schedule for our 16th Annual Convention!

Where Not To Put Punctuation Survivor Reporting For 2012 CAT Training Opening Reception Write Short, Write Fast! (WITH MARK KISLINGBURY) "Top Ten" Punctuation Questions The Primal Posture Solution Backup Basics Tough Love With Depoman AskDRA! CCRR Exam

PLUS ... AN ALL NEW FIRMOWNERS TRACK!

Add To Your Bottom Line With Stenograph Productivity Tools Getting The Most Out Of ReporterBase8 The Five Biggest HR Mistakes Employers Make Competitive Strategies For The Independent Firm Successful Debt Collection Techniques Wine & Cheese Networking Reception

SPACE IS FILLING UP! DON'T MISS THIS!

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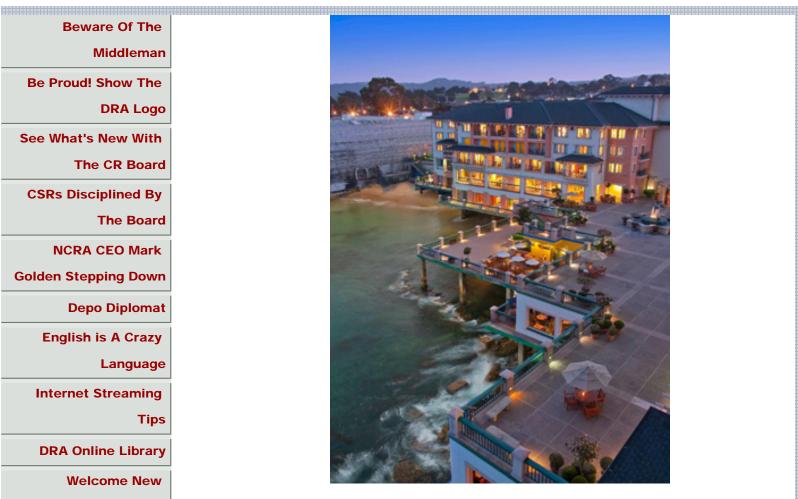
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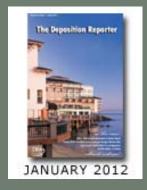
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DRA's Fight Against Kickbacks Bears Fruit

As you know, when the Deposition Reporters Association swings into action, good things start to happen for the profession. Today is one of those "good-things" days.

DRA has never relented in its education on the consequences of offering and accepting incentives in exchange for booking depositions.

+ You've read about DRA successfully pushing its joint resolution to change NCRA's Code of

Professional Ethics to ban incentive offers in exchange for work, which prompted NCRA to

change their ad policy so that ALL their advertisers must abide by the same rules.

+ You've seen DRA and CCRA's **Hanson Bridgett tax memo** that spells out the tax consequences to law firms and their employees of kickbacks in exchange for business.

+ You've watched DRA's video **Is Your Depo Getting You In Hot Water?** that we debuted at the CA State Bar Annual Meeting.

+ You've heard about DRA's article in the **Legal Secretary magazine** and other compelling articles co-authored by CCRA and DRA addressing the dangers of this practice.

+ You've known about DRA doing the legal leg work and filing the complaint, both of which led the CA <u>CRB to sue US Legal</u> for violating its rules on gift-giving.

Today, we received word that one of the world's largest court reporting corporations has made the following announcement:

"A growing number of concerns have been raised lately related to the appropriateness of gifting in the court reporting industry. To be proactive on this matter and to avoid any appearance of impropriety, Merrill has decided to discontinue its Depo Points program.

http://www.merrillcorp.com/depopoints-faq.htm

Although we are happy to read that Merrill has decided to stop delivering checks to those who earn and want to redeem their Depo Points for booking depositions, unfortunately, they and many other court reporting firms continue to offer other types of incentive programs:

http://www.merrillcorp.com/deposition-promotion.htm

Our work here at DRA is having an impact across the entire nation. There is more work to be done and together we are making good things happen. What can you do to help?

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Send this message to a friend who needs to **JOIN DRA**.

A strong membership makes YOUR DRA even stronger!!

DON'T FORGET TO JOIN US FOR OUR ANNUAL CONVENTION

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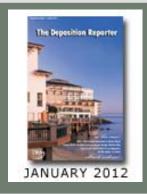
FEBRUARY 24-26 IN BEAUTIFUL MONTEREY

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Former NCRA President SueLynn Morgan Resigns Membership

In the November 2011 issue, we advised you that a letter was prepared on behalf of all DRA members and delivered -- as promised -- to NCRA's board of directors within two days of the announcement by For The Record, Ltd., a company selling digital recording and content management for judicial venues, that NCRA member and Immediate Past President SueLynn Morgan would head their new Consulting Services Department.

Over 400 DRA members signed on to the letter. We understand that NCRA took our request for action very seriously and began immediately investigating the issue and discussing how to proceed going forward.

On December 5th, 2011, the NCRA Board of Directors received notice from former president SueLynn Morgan, through her attorney, that she had resigned her NCRA membership. Morgan indicated that she had resigned based on actions initiated by the NCRA Board. The Board had initiated such actions shortly after learning in September that Morgan had accepted employment with a leading manufacturer of digital audio recording (DAR) systems and was following due process in adherence with the NCRA Constitution & Bylaws when this communication was received. Morgan's resignation has rendered further action by the Board in this matter unnecessary.

NCRA President R. Douglas Friend, RDR, CRR, indicated that the matter is now closed. "We have a number of strategic-level initiatives underway to advance the stenographic court reporting profession," he said. "Our association and our members are moving ahead with resolve and with renewed purpose. With this situation behind us, we have even more energy to devote to these efforts."

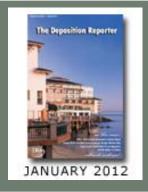
DRA wishes to thank each and every one of you who signed on to our letter. The letter and all of your signatures will be displayed on a giant poster board at the Monterey annual convention. Come and see your name in the spotlight! You should feel proud for defending your profession... DRA is proud of YOU.

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FEBRUARY 24-26 at the beautiful Monterey Plaza Hotel.





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As DRA has advised you in previous enotes and newsletter articles, responding in significant part to a complaint lodged by DRA with the Court Reporters Board, and based on the legal theories DRA laid out in that complaint, the CR Board sued U.S. Legal for violation of its gift-giving rules. The trial was scheduled for January 17, 2012 but was continued due to unavailability of a court room. The new date for the continued trial is March 5th.

DRA's lawyer, Ed Howard, filed a lengthy friend-of-the-court (amicus) brief. Click the links below to read DRA's amicus brief, as well as the briefs filed by the Attorney General and U.S. Legal.

Stay tuned for further developments.

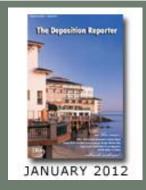
DRA's Amicus brief: http://bit.ly/DRABriefUSLegal

CR Board/Attorney General's brief: http://bit.ly/CACRBBriefUSLegal

U.S. Legal's brief: http://bit.ly/USLegalTrialBrief



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The Deposition Reporters Association is proud to announce the newest addition to our video library of reporter questions and answers:

IS IT ILLEGAL FOR ATTORNEYS TO COPY AND SHARE MY CERTIFIED TRANSCRIPT?"



LOG IN TO AskDRA TO SEE THE ANSWER! http://bit.ly/AskDRA

"Do I have any say when a depo is supposed to begin?"

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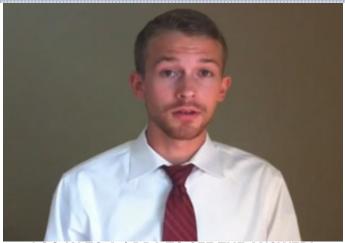
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LOG IN TO AskDRA TO SEE THE ANSWER! http://bit.ly/AskDRA

Have a question? Grab your camera and send DRA your question.

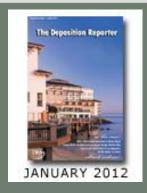
Better yet, come along with us to our Monterey Annual Convention, and we'll shoot it for you. How's that for member service?

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Texas Courts Switch Back To 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 audioonly 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.

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.

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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.

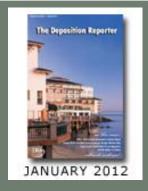
Massive delays, hearing repeats, and charges being dismissed outright are among the main reasons that courts are switching back to live court reporters. Reliable, professional, accurate, tried-and-true – that's why Texas State District Courts are going back to live court reporters!

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by DRAadmin

Ib>Start the New Year off by signing up for Ethics First.

Individuals who are members of NCRA and qualifying firms are encouraged to participate. Currently, there are 75 California members listed as having signed up, the largest number of participants of all the 50 states. BUT we know there are WAY more than 75 reporters who are committed to following the guidelines set forth in NCRA's Code of Professional Ethics, and the Ethics First program is a great way to demonstrate that to our consumers and the general public.

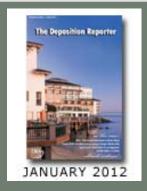
Click Here To Sign Up Now:

http://www.ncra.org/Membership/content.cfm?

ItemNumber=11519&navItemNumber=11518







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What's The Secret? Beware Of The Middleman

Two Very Important Questions To Ask The Reporter At Your Next Deposition by Craig E. Hillborn MICHIGAN BAR JOURNAL, NOVEMBER 2011

FAST FACTS:

Beware of the middleman. Anytime there is a third-party contractor in place, there is increased cost to the parties.

More than a considerable amount of depositions scheduled with reporting agencies are done through contracts held with third parties to the lawsuit. Protect yourself, your client, and the fees you're advancing by inquiring at your next deposition: "Do you hold a contract with XYZ? What is my page rate? What is their page rate?" Your money is at stake here.

Who's really paying for the transcripts? If one of the parties to the suit is getting a discounted rate on its transcript fees because of a blanket contract, who do you think is making up the difference? You and your client are by paying higher fees.

Can you walk into your next deposition assuming that the court reporter will be an impartial keeper of the record, or that the reporter will charge you in accordance with statute, or that the reporter will not create a database including the testimony of your expert witnesses for use by the defense, or that the transcripts will be delivered to you in the same way they are delivered to opposing counsel? You could assume all of the above, but given the exclusive contracts often executed between court reporting firms and insurance companies or corporate litigants, such an assumption could prove to be a mistake.

Over the last decade or more, an increasing number of insurance companies and corporate litigants have entered into longterm agreements with court reporting agencies. These agreements require counsel to use a particular agency for every deposition they conduct. In return, the insurance agency or corporate litigant benefits by receiving reduced fees.

MCL 600.1491(1)(a) provides that a court reporter may not "[e]nter into or arrange for any financial relationship that compromises the impartiality of court reporters ... or that may result in the appearance that the impartiality of a court reporter ... has been compromised," and MCL 600.1491(1)(b) provides that a court reporter may not "[e]nter into a blanket contract with parties, litigants, attorneys, or their representatives unless all parties to the action are informed on the record in every deposition of the fees to be charged to all parties for original transcripts, copies of transcripts, and any other court reporting services to be provided." In turn, MCL 600.1490(1)(a) defines a "[b]lanket contract" as "a contract under which a court reporter...or court reporting firm agrees to perform all court reporting or court recording services for a client for 2 or more cases at a rate of compensation fixed in the contract." Accordingly, if such a blanket contract exists, it must be disclosed on the record and the court reporter must also advise each party of the fees it will be charged under the contracted rate.

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Have you ever heard a court reporter make such a disclosure on the record during a deposition? I haven't. This statutory requirement is not being followed. The decision not to disclose the existence of these blanket agreements creates a multitude of questions that must be answered. For example, is a noncontracting litigant being charged fairly? Or are the fees that are lost by charging lower rates to contracting insurance companies or corporate litigants actually being recouped by charging increased rates tononcontracting parties?

MCL 600.1491 goes on to state that a court reporter shall not charge more than two-thirds of the price of an original transcript for a copy of that transcript. In simple numbers, if the ordering counsel is being charged \$2.25 per page for the original transcript, opposing counsel can only be charged two-thirds of that contracted price, or \$1.50 per page.

These statutes governing the execution of contracts with court reporters and court reporting firms have been in effect since 1998, and as explained previously, such exclusive contracts are often executed between court reporting firms and insurance companies or corporate litigants. However, I have yet to hear a court reporter make a statutorily required "disclosure" on the record, let alone an announcement concerning the price I will be charged per transcript page. If the practice of entering into blanket contracts is legal in Michigan, and only requires that the court reporter disclose the contract on the record and advise the attorneys of their charges, why are the statutory requirements not being followed?

Michigan's statutory laws exist for a reason. Arbitrarily disobeying a statute is a grave concern, and those who choose to not play by the rules create questions in one's mind that are limitless.

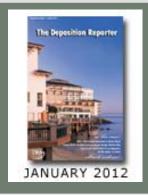
Now that I understand MCL 600.1490 and MCL 600.1491, if there is no disclosure on the record by the court reporter at my next deposition, I will be certain to ask whether a blanket contract exists and, if so, what price each party will be charged for the transcripts.

As a plaintiff's attorney, I would obviously prefer that no financial relationship exists between the court reporter and the defendant or corporate litigant. But as long as Michigan allows such financial relationships and blanket contracts with court reporting firms, then it is critical that all parties follow the law.

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DRA is proud of everything it has accomplished and proud of the principles for which it stands. We are likewise proud of each and every member who has made the commitment to carry on our ideals and efforts on an individual level. As such, we would be pleased to allow our members to display our logo on their websites and marketing materials, on the condition that their membership remains current and that they agree to abide by our Code of Ethics.

Click this link to apply for the DRA member logo:

http://bit.ly/GetDRALogo





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IMPORTANT QUESTIONS THAT WE SHOULD ALL KNOW THE ANSWERS TO!

How do I renew my CSR license? What is the renewal fee? Is there an inactive status? Is a licensee's address of record public information? Do I need to notify the Board of an address or name change? Are complaints filed against a licensee public information? How can I know if there are any complaints against my CSR license?

Please click on the links below to view the "UPDATED FAQs" and "NEW Procedural FAQs" for the Court Reporters Board of California.

http://www.courtreportersboard.ca.gov/consumers/faqs.shtml

http://www.courtreportersboard.ca.gov/licensees/pro_faq.pdf

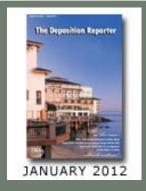
AND ...

Please click on the links below to view the "Examination Statistics - July 1,2011 Thru October 31, 2011" and "Dictation Examination Statistics - October2011" for the Court Reporters Board of California.

http://www.courtreportersboard.ca.gov/applicants/examstats_0711_1011.pdf

http://www.courtreportersboard.ca.gov/applicants/examstats_1011.pdf





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CSRs Disciplined By The Board

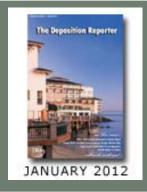
Please click on the links below to view the "UPDATED Disciplinary Actions" and "Citations and Fines Issued," for the Court Reporters Board of California.

http://www.courtreportersboard.ca.gov/consumers/discipline.pdf

http://www.courtreportersboard.ca.gov/lawsregs/cite-fine.pdf



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NCRA CEO Mark Golden Stepping Down

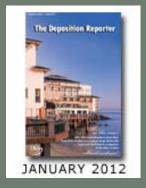
After 13 years as NCRA executive director and CEO, Mark Golden today announced that he will be leaving NCRA when his contract expires on May 31, 2012.

"I am proud of my part in helping the membership to bridge its differences and forge a common bond that all can rally around," said Golden, referring to the recent Writing Our Future initiative. "NCRA is now in a strong position to move forward with new unity and purpose. Accordingly, it is a good time for the association and for me to make a change."

NCRA President Doug Friend indicated that Golden's impact has been profound. "Mark has been a tireless champion for our profession and for NCRA's membership, as well as an accomplished chief executive for the association for more than a decade," said Friend. "He has served the elected leadership and membership through his vision, passion, innovation, problem-solving skills, and advocacy for the profession."

Friend also indicated that the Board soon will be creating a search committee to identify NCRA's next executive director.





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Depo Diplomat

Dear Depo Diplomat:

Do we have to supply exhibits to counsel that do not order a copy of the transcript? If not, is there a code section that I can refer to?

Thanks for your help.

Dear Reporter:

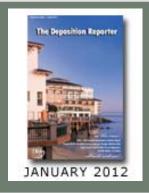
There's actually nothing in the Code of Civil Procedure (CCP) regarding exhibits to any extent, at least nothing that provides reporters direction as deposition officers on the handling of exhibits that answers your question. So, unfortunately, I can't point you to a Code section that you can rely on or cite to support your decision to supply or not supply an attorney with exhibits when no transcript copy is ordered.

But you certainly can establish a policy that exhibits, as a part of the deposition transcript, are only provided with a transcript order. Or, on the other hand, if you're willing to provide the exhibits without the transcript being ordered, there's no prohibition on that in the CCP, so you could do so. You might consider setting some minimum charge for this to cover your time in copying, binding, packaging and shipping. After all, sending an invoice for \$2.75 for a few exhibit copies isn't economically feasible and will no doubt cost you more than that much in time and expense, so I'd suggest you set some minimum fee for this service. And, by all means, you can require payment in advance, because this is likely to be a small bill that may be overlooked, and it certainly won't be worth the trouble and expense of rebilling and chasing after later if the bill remains unpaid.

I hope this answers your question, but if not, you're always welcome to contact us again at www. caldra.org, and you can always submit a question to us through AskDRA on our website.

Antonia Pulone DRA Depo Diplomat





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English is A Crazy Language

We'll begin with a box, and the plural is boxes, but the plural of ox becomes oxen, not oxes. One fowl is a goose, but two are called geese, yet the plural of moose should never be meese. You may find a lone mouse or a nest full of mice, yet the plural of house is houses, not hice.

If the plural of man is always called men, why shouldn't the plural of pan be called pen? If I speak of my foot and show you my feet, and I give you a boot, would a pair be called beet? If one is a tooth and a whole set are teeth, why shouldn't the plural of booth be called beeth?

Then one may be that, and there would be those, yet hat in the plural would never be hose, and the plural of cat is cats, not cose. We speak of a brother and also of brethren, but though we say mother, we never say methren. Then the masculine pronouns are he, his and him, but imagine the feminine: she, shis and shim!

Let's face it - English is a crazy language. There is no egg in eggplant nor ham in hamburger; neither apple nor pine in pineapple. English muffins weren't invented in England.

We take English for granted, but if we explore its paradoxes, we find that quicksand can work slowly, boxing rings are square, and a guinea pig is neither from Guinea nor is it a pig. And why is it that writers write, but fingers don't fing, grocers don't groce and hammers don't ham?

Doesn't it seem crazy that you can make amends but not one amend? If you have a bunch of odds and ends and get rid of all but one of them, what do you call it?

If teachers taught, why didn't preachers praught? If a vegetarian eats vegetables, what does a humanitarian eat?

Sometimes I think all the folks who grew up speaking English should be committed to an asylum for the verbally insane. In what other language do people recite at a play and play at a recital?

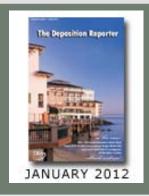
We ship by truck but send cargo by ship. We have noses that run and feet that smell. We park in a driveway and drive in a parkway. And how can a slim chance and a fat chance be the same, while a wise man and a wise guy are opposites?

You have to marvel at the unique lunacy of a language in which your house can burn up as it burns down, in which you fill in a form by filling it out, and in which an alarm goes off by going on.

And in closing.....

If Father is Pop, how come Mother's not Mop???





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Internet Streaming Tips

by Rosalie Kramm, CSR

1. Stenocast while streaming to the Internet – Always have your Stenocast box connected to a power source when you are simultaneously streaming text via the internet. 99% of the time it is not necessary, but if your computer for even a microsecond does not send power to the box, your screen might freeze or blue screen. My laptop would freeze at the end of a break when everyone was ready to go back on the record. The experts tell me it happened then because I was not sending any steno out, and the computer decided to take a nap to save energy. Being proactive and having constant power going to the Stenocast unit can save your day.

2. Letting counsel know streaming is occurring – Our firm has had occasions when attorneys have asked the court reporter to stream without the knowledge of other counsel. Our policy is to never secretly stream text, video or audio. We put counsel on notice before a streaming deposition that the court reporter will make a statement before swearing in the witness that streaming is taking place. If there is a videographer, the statement regarding streaming will be made in the legal videographer's read-on.

3. Court Reporter + Legal Videographer streaming in unison – It is all about bandwidth. If possible, have the legal videographer connect via a CT5 or CT6 cable.

4. CT5 versus CT6 – I found out the hard way that some older buildings do not work with CT6 cables. Once we switched out cables and used a CT5, the streaming worked perfectly. It has nothing to do with the building's bandwidth, but, according to the experts, the older wiring only works with CT5 cables.

5. Antivirus Software – Last year I purchased a new laptop that came with free 30-day Norton antivirus software. When trying to stream, the Norton software would not allow me to send out a feed. Once the Norton software was deactivated, the streaming worked perfectly. Now I use ABG antivirus software. As Chris Jordan says, "Norton is a computer hog."

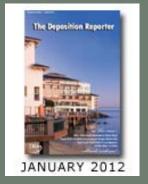
6. Stream logs – Make sure your streaming vendor gets you the logs of anyone that logged on so you can add those names as being present via stream on your appearance pages.

7. Skype – Use an external microphone and speakers as a best practice to provide superior audio and sound.

8. Streaming with a vBrick or Digital Rapids box – Have a speaker phone at the deposition since there is a 7 - 8 second delay with the audio stream. For remote counsel to participate and object, they will need to participate via speaker phone.

These eight tips are the only scenarios I can remember when something went wrong and my streaming wasn't working. Realtime court reporters have a tremendous skill being able to stream the spoken word out to the world simultaneous to when it is spoken. I wish everyone, court reporters and legal videographers, good streaming.





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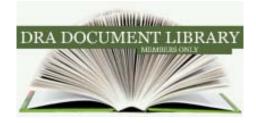
DRA Online Library

Just a reminder to check out the DRA library!

Ever wondered what the evidence is for the benefit of stenographic reporters over ER or what other reporters are doing to combat gift-giving in their individual work environments?

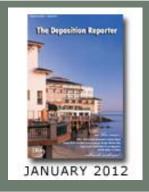
Yet another of our many member benefits, DRA has compiled an extensive list of reference materials to educate and assist you in fighting the threat of electronic recording and gift-giving in your area.

Click here to take advantage of this tremendous resource: http://bit.ly/DRALibrary





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