

Florida Court Reporters  
**FCRA**  
Association

# FCRA *Online*

OFFICIAL PUBLICATION OF THE FLORIDA COURT REPORTERS ASSOCIATION

NOVEMBER/DECEMBER/JANUARY 2011



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 all the latest happenings!*

**By Robin Merker, RPR, FPR  
2010-2011 President**



## Welcoming the New FCRA President...

**Below is the speech delivered by newly-installed FCRA President Robin Merker at the Annual Convention Business Luncheon in St. Pete Beach, Florida, on October 9, 2010.**

Good afternoon and thank you for coming. I am honored to be standing before you today, but I've got to admit, it's a little scary up here.

When I started court reporting school in 1981, I hadn't the vaguest clue what being a reporter entailed. I thought that after a few easy months of school I'd be out there swinging my own Samsonite case and spending a few hours a day tapping away at my little machine, and then I could hang out in Coconut Grove afterwards – the cool place before South Beach. At least that was the impression I got from the commercial. As you can imagine, I was seriously wrong on all counts and obviously didn't pay close attention, and that few months became 30. But even as I found out how wrong I was, how much school demanded of me, and how heavy that Samsonite case could be, I fell in love with reporting. And I've stayed in love with it through each technological jump and challenge.

The same thing happened when I first joined FCRA and then became a director. I really had no idea what I was getting into. For those of you who have never attended an FCRA board meeting, it's a real eye-opener. I have participated on and observed other boards in the past, but I've never seen one as efficient, courteous, and professional as ours. Because of that, things get accomplished. That has held true for the entire time I've been privileged to be a board member. And because of that, I became more and more involved, and before I knew it, well, here I am standing before you.

We have a complicated path before us. If you've been reading *FCR Online* and the E-Flashes, if you were at the Mid-Year Conference in June, if you've participated in the Call to Action...Now campaign, you know what's going on.

You know about how fees for court-appointed and indigent-for-costs cases have been drastically cut by the Florida Legislature.

You know how ER and Digital Reporting have become more and more prevalent in our court systems.

You know how digital technology is spilling, if not flooding, into the freelance arena.

And if you were present at our 2009 Annual Convention, you know Susan Wasilewski's speech was eerily prescient.

So here we are. And what do I say to you?

Well, I can say that when the state budget passed, FCRA swiftly responded. I was never more proud to be a member of our association than at our Midyear Business Luncheon in June when membership stood up and said – you, FCRA Board, make it happen, get the lobbyist help we need, and we, as an association, raised almost \$30,000 in pledges that afternoon.

I can say that within a few weeks of that, our Call to Action...Now campaign kicked off, and we reached out to every agency we could find, and through them, to every reporter in the state of Florida, to educate them on the issue and ask for their help. Reporters and agency owners got it. They understood the implications of letting those rates stand in the budget, and they were willing to spread the word far and wide.

As FCRA president, it will be my responsibility and privilege this year to work with our board of directors and membership to keep the momentum going and to get our message heard, to educate those who can help us achieve our goals.

Thankfully, some things are not so complicated. In preparation for today, I went back and read some of our past presidents' messages. Much of what is in them is as relevant today as when they were given, and there are common threads joining each of them to the next right up to today.

Membership: We know we need to increase membership. Even though our numbers are the greatest they've ever been, 747 members strong, we know there are at least 3500 reporters in the state of Florida. We can all do the math. The more members we have, the more credibility we have as an association when we are representing you. Pragmatically speaking, the more members we have, the less the financial burden on the rest of us as we fund this endeavor.

We have and will continue to bring in members

*Continued on page 7*



## Editor's Column: Jury Read-Back Requests

What simple words can strike momentary fear and panic in a court reporter's mind? "We have a read back request from the jury." I don't care if you are a hot-off-the-press court reporter or a long-time certified realtime reporter, there will be times when you instantly start going over in your mind how clearly you wrote — or didn't write — that ballistics expert's testimony, that medical examiner's testimony, or that patent expert's testimony.

I must admit that in my 25 years in the court reporting profession, I have experienced both complete confidence in my ability to read back on demand and, on the flip side, sheer terror that the realtime screen is going to contain a number of mistranslates or untranslates which could make it more difficult for me to read back as smoothly as I would like. Thank God for the note file, which I keep attached on the right side of my realtime screen. When I'm feeling nervous, reading back from raw steno notes is easier for me than reading through mistranslated text.

My next question for you is how many of you breathe a sigh of relief when, while reporting a jury trial, the judge tells the attorneys, "I don't allow read backs in my courtroom"? Or, "I will instruct the jury that they must rely on their own collective recollections"? Well, in the near future that may no longer be an option for Florida trial judges.

A recent article appeared in the September/October edition of *The Florida Bar Journal*, <http://www.floridabar.org>, entitled "Allow Instant Replay in Jury Trial?" written by Jonathan Olson. The article "...reviews the current state of the law on this question...examines the options available to the court and parties when such a read back request is made...(and) proposes the idea of playing prior testimony through the court's own recording system, along with a possible instruction to inform the jury of the luxury of a read back."

Mr. Olson states, "Today, however, we live in an electronic age. Nearly every courtroom is equipped with microphone

and video cameras. In another room, a digital database is recording every statement, objection, or utterance from each witness, judge, attorney, and clerk. With a mere press of a button, a judge can replay testimony. Although a read back from the court reporter is still an option, in the modern era, trial courts have a far better and easier option through the playing back of testimony."

He further states, "...the read back could be misleading. However, playing the witness' recorded testimony solves this problem. A court reporter's reading lacks inflection and emotion. But the actual recording holds every word, pause, stutter, and ruling by the court. A replaying presents not only the actual words used, but how they were spoken by the witness."

I would like to present an idea that we court reporters might need to explore, although I imagine this idea won't go over well with some reporters. Most, if not all, court reporting software offers audio sync capability, which synchronizes the .wav file with the text when writing realtime. Using that feature allows court reporters to effortlessly locate the testimony that is requested to be read back and, with a click of the mouse, play back the digital recording that is captured on the reporter's computer. Then the jury could hear every word, pause, stutter and ruling by the court as they were spoken. The option could be given to the judge to have the requested testimony read back by the court reporter or played back through the court reporter's computer.

In the competitive environment that reporters work in today, playing back testimony is another value-added service that we can provide to the judiciary. As the judges get more and more used to receiving playback through its own recording system, chances are they will be happy if the court reporter can provide playback services AND the "luxury" of a read back.

Just a little food for thought...



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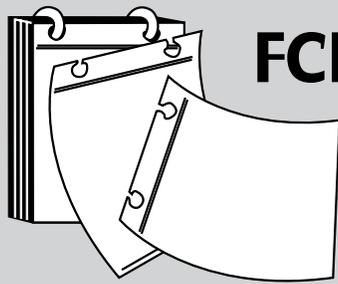
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(Spring) Feb/Mar/Apr ..... Jan. 5, 2011

Publication Date ..... Feb. 12, 2011

(Summer) May/June/July ..... April 5, 2011

Publication Date ..... May 12, 2011

(Fall) Aug/Sept/Oct..... July 5, 2011

Publication Date ..... Aug. 12, 2011

(Winter) Nov/Dec/Jan ..... Oct. 5, 2011

Publication Date ..... Nov. 12, 2011

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*Shirley P. King, RPR, CLVS, FPR, on behalf of  
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*Susan Shelling, RPR, FPR*

*Richard A. Sherman (Ask Mr. Modem)*

*Nancy Varallo RDR,CRR,FAPR (Dear Nancy)*

# Welcoming the New FCRA President...

*Continued from page 4*

through our membership information exchanges all over the state. If you have one in your area, please come and bring some unsuspecting, unaffiliated reporter with you! Or hand out our Top Five Reasons to Join FCRA flyer to reporters you meet by chance. What I'm saying is, talk about FCRA and its benefit to you with other reporters, bring it up when waiting for a hearing, tell them what we're doing, the issues we're facing as a profession, hand out the Call to Action...Now. You get the idea!

Like every incoming president before me, I tell you we must continually strive to improve ourselves. For our students, prepare yourselves. The day you graduate court reporting school is not the end of your education. It's a huge and welcome milestone, but in reality it's simply the end of your classroom education. Reporting is a life-long commitment to learning and self-improvement. We do it by going after those skills certifications and participating in our state and national associations. We do it by bringing those laptops and opening them up in front of our clients and judges, so that we can fine-tune our writing skills as we work. Those of you who have taken the FPR, no matter how long you've been reporting, you know the knowledge you've taken away from that has propelled you to a higher degree of professionalism and awareness of how to better serve as Guardians of the Record.

Why should we do this? Well, aside from the fact it's good for you, we know that to compete with new technologies and meet our clients' needs we must continue to be the best we can be. This is what will keep us viable and valuable in the years ahead in the face of competing technologies.

And I have to say, one of the reasons I love being a reporter is that we are educated almost continually through the performance of our job. We may not be formally enrolled in college, but we are students of the law, of medicine, of economics, and literature. We become researchers every time we have to look up a case or a medical procedure, a quote from Shakespeare or Bacon. We become grad students when we learn about mortuary science or the production of cat litter – you can ask me about that one tonight – and we absorb all of this.

Seriously, what other profession gives us the opportunity to learn about every other walk of life?

As we face the challenges ahead, let's remember to keep our enthusiasm and positive energy high. We can't control events around us, but we can control how we react to those events. As we appear before judges, attorneys, clients, students, the general public, and each other, we need to remain positive and professional and actively advocate for our organization and our profession.



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# FCRA 2010 Annual Convention Photo Highlights



# FCRA 2010 Annual Convention Photo Highlights



# FCRA 2010 Annual Convention Photo Highlights



# FCRA 2010 Annual Convention Photo Highlights



# It was the Perfect Weekend at the FCRA 2010 Annual Convention!

By Susan Shelling, RPR, FPR and Joyce Bluteau, RPR, FPR, Convention Co-Chairs

The 2010 Annual Convention held on October 8, 9 & 10, 2010, was set in the beautiful TradeWinds Resort in St. Pete Beach, FL. It was the most beautiful weekend. The weather was truly delightful, the sunsets were beyond amazing, and dolphins were sighted frolicking in the ocean. Who could ask for better?

The FPR (Florida Professional Reporter) seminar was given on Friday, Oct. 8th, and the turnout was absolutely impressive. It's so good to see how many reporters really love their profession and sign up to improve themselves. The course was filled with interesting information that we deal with in our everyday court reporting lives. There were certainly plenty of "a-ha" moments. There are new rules and rule changes all the time, and keeping up with the times is very necessary. This course is one of those you just can't miss.

On Saturday, Michael Merker gave a wonderful presentation on "How to Prevent Your Computer from Killing Your Productivity." His seminar was very creative, fun, and quite entertaining, to say the least. We learned the "do's and don'ts" of good computer maintenance and much more. Knowing how to properly back up and maintain your computer is a key factor in maintaining your efficiency and productivity, so don't put it off until tomorrow! You'll possibly regret it.

Michael Appelman from Stenocast put on a terrific seminar on realtime hookups. His company has designed hardware for different realtime hookups, both wired and wireless. His product will accommodate situations as easy as a one-on-one hookup to over 20 hookups, and it can all be done wirelessly. It is extremely easy to use and it is truly fascinating. It was very inspiring to see how easy hooking up realtime can be accomplished.

Our Annual Luncheon and Business Meeting was filled with emotion. Our new FCRA President, Robin L. Merker, was installed as well as all of our new officers and board members. Robin gave a wonderful forward-looking speech of where we're going and how we're going to get there. Her speech was inspiring and very eloquently delivered. Congratulations, Robin!!

Gayl Hardeman presented the Emily Mann Distinguished Service Award to Tanya Ward English for her service and dedication to the profession and the public. The Meritorious Service award was presented by Susan Wasilewski to Jennifer Gaul for her unwavering support and personal assistance this past year. The presentation was a real "pinkie pincher." For those of you who missed it, when you feel the urge to cry but you need to make it go away, pinch your pinkie. Thank you, Susan, we'll never forget that

piece of advice. Rick Greenspan received the President's Award for his outstanding and tireless devotion to the creation and maintenance of our website and to our profession as a whole; need I say more? And Diane Emery presented the Arlene P. Sommers Award to Caron Patnode of Erwin Technical Center for her dedication to teaching and mentoring our reporting students. We tip our hats to all of you. Congratulations!

Tammie Shedd, our NCRA representative, gave an informative speech and brought us up to speed on what's going on nationwide. Tammie also inducted all of our new board officers and directors. Many thanks to Michael Cano for taking all of this down realtime and projecting it for all to see. He did a truly amazing job.

Saturday afternoon we had a legislative boot camp with Dave Wenhold and Erika Alba, our national and state lobbyists. This seminar was an eye-opener. Dave and Erika were vibrant and engaging speakers. They explained how things can happen at the blink of an eye in Congress. We were given a very clear understanding of why we have to be proactive with the help of our lobbyists and take appropriate steps to secure our future. We have to get involved, not just sit back and let things fall where they may. We need to protect our profession, so step up to the plate and make it happen! Now is the time, it's a call for action!

# It was the Perfect Weekend at the FCRA 2010 Annual Convention!

*Continued from page 14*

Remember, Together We CAN!!

We had a lovely President's Reception Saturday night. The food was delicious and it was a nice time to chat with old friends and make new ones. The desserts were to die for! The new President's "thing" for chocolate was satisfied by the huge chocolate fountain.

Sunday morning, our newly appointed president, Robin Merker, moderated our "Briefly Speaking" seminar. Robin discussed different briefs and how to best develop a brief. It was an interactive seminar where everyone participated. Everyone contributed their favorite brief and that one stop-in-your-tracks word or phrase they needed resolved. It was definitely fun talking about how to write shorter,

better, faster (more efficiently); after all, it's our favorite topic! The attendees were later e-mailed an extensive list of suggested briefs.

Our convention finale was Shirley King hosting her Ethics Jeopardy Game Show, with buzzers and all. Questions were from the FPR certification class. We had three "volunteers," Michael, Annie, and Mindi, chiming in with their questions to Shirley's answers. Very informative and lots of fun, fun, fun!!! Shirley, thank you so very much!!

Oh, almost forgot. Congratulations to our fundraiser winner! Rhonda Bounds from Palm Coast won the convention package including two hotel nights at an FCRA 2011 meeting of her

choice. Go, girl!! Who says you can't win? There's a winner every time. Next time it could be you!

In closing, we give a heartfelt thanks to all of our sponsors, to Kautter Management, and the FCRA Board of Directors for all their efforts in making FCRA as great as it is. Thank You!!!

If you missed it, you missed a great weekend. Don't be so shy next time and join the festivities!

Our next conference will be the FCRA 2011 Mid-Year Conference, March 4-6, in beautiful West Palm Beach at the Hilton (Palm Beach Airport). Watch the FCRA website for updates.

Hope to see you there!



## UPCOMING EVENTS CALENDAR 2010-2011

December 4 - 5, 2010	CLVS Production Examination, NCRA Headquarters, Vienna, VA Register online at <a href="http://www.ncraonline.org">www.ncraonline.org</a>
January 10 - 22, 2011	NCRA Written Knowledge Test – Nationwide Information posted on <a href="http://www.ncraonline.org">www.ncraonline.org</a>
February 6 - 8, 2011	NCRA Firm Owners Executive Conference, JW Marriott Starr Pass Resort, Tucson, AZ Register online at <a href="http://www.ncraonline.org">www.ncraonline.org</a>
February 25 - 27, 2011	CLVS & Trial Presentation Symposium, Westin Peachtree Plaza, Atlanta, Georgia Register online at <a href="http://www.ncraonline.org">www.ncraonline.org</a>
March 4, 2011	FPR Seminar & Certification Exam, Hilton Palm Beach Airport, West Palm Beach, FL Information to be posted on <a href="http://www.fcraonline.org">www.fcraonline.org</a>
March 4 - 6, 2011	FCRA Mid-Year Conference, Hilton Palm Beach Airport, West Palm Beach, FL Information to be posted on <a href="http://www.fcraonline.org">www.fcraonline.org</a>

*Please notify Louise Pomar, Editor, [lbp1958@aol.com](mailto:lbp1958@aol.com), of any upcoming events that you would like to appear in the "Upcoming Events Calendar."*

# How Much is Your Income Worth to You?

By Holly Kapacinkas, RPR, CRR, FPR

Would you spend \$300 (\$25/month) to help ensure that your income is not cut by 30% or 50% next year? For less than the cost of a monthly manicure, you may save thousands in income. How about \$600 (\$50/month), the cost of a dinner with a friend once a month, would you spend that much to keep your income from dropping by thousands of dollars? Sounds like a no-brainer, right? What if you could save your income from being slashed, plus the incomes of court reporters statewide? Double, triple, quadruple no-brainer!

In these hard economic times, many people we know are unemployed. I would be willing to bet that those people would have gladly paid a few hundred dollars last year if it meant keeping their jobs this year. Well, as court reporters, we have a chance to do just that, and, yet, just a small percentage of reporters across the state have responded to FCRA's **Call to Action...Now** (CAN) campaign. Since members of our profession are way above average in intelligence, not likely to pass up a no-brainer, I can only conclude that, possibly, despite FCRA's best efforts, the message of the seriousness of our situation is not getting out there, so let me recap the assault that has happened on our profession this past year.

If you are a reporter covering criminal courts, you have already seen your income decline. The 2010-2011 Florida General Appropriations Act drastically cut fees paid to reporters covering private court-appointed and indigent-for-costs criminal cases. Appearance and transcript fees were cut by 25%-50%, depending on which area of the state you are in.

If you are a reporter covering civil litigation, your rates

are not safe either. Insurance companies are already looking to the statutorily dictated rates for criminal work and awarding work to civil reporters who will work for these same low rates. Reporters in the criminal arena will, understandably, be flooding over into the civil market, creating more competition, and driving down rates for reporting services.

As a reporter serving on the board of FCRA, I can tell you that you have a very dedicated, passionate board serving your association. If there is one lesson that we came away with this past year, it is that we need a lobbyist fighting for us in Tallahassee, acting as our eyes and ears so that we can be proactive instead of reactive on court reporting issues. We need to be at the table, not on the menu! This brings us back to the reason for the **Call to Action...Now** campaign.

In the past, FCRA has not been able to consistently maintain the cost of hiring a lobbyist. If we had, we might not be facing the challenges we are today. Although hiring a lobbyist is not cheap, it is now clearly evident that we cannot afford not to. FCRA started the **Call to Action...Now** campaign in order to raise money for our legislative fund. We have been able to raise money to hire a highly respected and influential lobbying firm, The Fiorentino Group. Those of you who had the chance to hear Erika Alba speak at the last two conventions know what an impressive advocate we have fighting for us. Ms. Alba is working to get the statutory reporting rates out of the budget while educating our legislators on reporting issues. In the future, we will need the Fiorentino

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Group to work on ensuring that the “written record” is always considered the “official record.”

Here’s the problem: FCRA has raised enough money to pay the lobbyist until December. FCRA will be running out of money at the most critical time, the months leading up to the legislative session. We have, roughly, 160 reporters who have contributed to the CAN campaign out of 700+ reporters in FCRA and 4,000+ reporters in Florida. We are a better association than that. We are a better profession than that.

Here’s the solution: Look on the list of contributors below. If your name does not appear, please reflect on how much you would spend to protect your profession and your income and then make an ongoing monthly pledge to FCRA’s legislative fund. If your name does appear and you can give more, please give more. If you can’t, print this article and pass it out to every reporter you know, FCRA member or not.

FCRA is working for you, but we desperately need your help. Please don’t sit back and wait for someone else to save your job. How much is your income worth to you?

## THANK YOU to the Following FCRA Heroes:

Anderson, Helen, RPR, FPR..... Anderson Reporting Service  
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 Benowitz, Michael..... Veritext  
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Continued from page 17

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**We need to be at the table, not on the menu! This brings us back to the reason for the **Call to Action...** Now campaign.**

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## **Congratulations to FCRA's Very Own Deanna Boenau –**

## **NCRA 2010 Realtime Contest Winner**

Florida's Very Own Deanna "Dee" Boenau of Sarasota won the National Court Reporters Association's highly-prized National Realtime Contest in Chicago on August 7, 2010. Held each year at the NCRA Annual Convention, along with the National Speed Contest, this is the "Olympics" of court reporters, CART providers, and Broadcast Captioners. The Realtime Competition recognizes a stenographic reporter's accuracy for instant speech-to-text translation. Forty contestants from across the country competed in the 2010 National Realtime Contest. Only seven of the forty qualified overall, including past champions. Dee won with nearly 99% accuracy.

Ms. Boenau won gold in the two-voice testimony in 2007 and 2008, while taking the gold in the Literary portion in 2009. Before winning the 2010 title in August, she had placed either second or third six times in the overall competition. Her determination and persistence finally paid off!

Some of Dee's past accomplishments include winning the 2005 Pennsylvania Cup for Realtime and each of the three Florida Cups for Realtime; receiving the FCRA Pro Bono award in 2004 for services she's provided to various deaf and hard of hearing organizations; and graciously sharing the 2005 Florida Association of the Deaf Achievement Award for Accessibility with partner Jack Boenau.

Dee is Vice-President of Sarasota-based AmeriCaption, Inc. and a Registered Diplomate Reporter, which is the highest level of certification available to court reporters, CART providers, and Broadcast Captioners through the National Court Reporters Association.

Dee, FCRA is very proud to call you one of our own. Congratulations!

The Facebook logo, consisting of the word "facebook" in white lowercase letters on a blue rectangular background.

**Check us out on Facebook!**

**Join the Group:**

**Florida Court Reporters Association**

# Congratulations, Tanya Ward English, RPR, CRR, CCP, CBC, FPR

## 2010 Emily Mann Distinguished Service Award Recipient

By Gayl Hardeman, CCP, RDR, FPR



It was my distinct pleasure to present the prestigious FCRA Emily Mann Distinguished Service Award to Tanya Ward English during the October 2010 Business Luncheon in St. Pete Beach, Florida. The recipient of this award must possess exceptional qualifications and experience in the field of court reporting, while contributing in a meritorious manner to the welfare of FCRA. Without a doubt, Tanya more than exceeds those qualifications.

Since Tanya was unable to be physically present at the business luncheon, Mike Tansey, a CART consumer and teacher of American Sign Language, prepared a video of praise for her and attended the luncheon to accept the award on her behalf.

I would like to share with you now a few of the letters that I received from friends, consumers and colleagues of Tanya's who were thrilled to hear that she was going to receive this prestigious award.

Tanya earlier in her career participated in realtiming the tobacco trials in Miami and Ft. Lauderdale, and Craig Taylor of Taylor & Jonovic had this to say about Tanya: "I have had the pleasure of knowing and working with Tanya for many years. Aside from being an excellent court reporter, she is a true professional. She cares about the quality of her product, is a true team member, is respectful to everyone, and has a wonderful personality. We've reported many daily copy trials with Tanya. One humorous incident stands out. We were trying to meet a deadline, and Tanya kept talking to all of us while trying to get the transcript out. I finally turned to her and said half-jokingly, 'Tanya, shut up.' And she responded, 'I can't. My head will explode!' We all laughed and still made our deadline. She is well deserving of this award from her peers."

Katie Gott started working with Tanya in 2001. She is a CART provider and broadcast captioner. She has been an admirer of Tanya's and she says, "As a person, I just love her. She is caring, funny, sympathetic, understanding, and I am so glad to have been able to work with her all of these years. I consider her my mentor, and she has helped me develop into the professional that I am today."

Vicki Johnson said, "I knew of Tanya many years before I met her solely by her excellent reputation and realtime company that she ran in Miami and reporters that worked for her. I remember looking her up on her website and marveling how up-to-date in technology she and her company were. She was always someone I would hope to meet one day and was always an inspiration to me. When video was going to replace us reporters in my courtroom, inspired by Tanya's work I stepped up to offer realtime in my courtroom, and because of that our jobs were saved. I had one of the most exciting job opportunities traveling to Hawaii and California because I could offer the real-

time service. Watching how realtime progressed, I worked to become a CART provider and broadcast captioner. I finally got to meet her, the one who inspired me, at one of the FCRA conventions. This past year I was the one who had the awe-inspiring task of replacing her very productive term of service on the Council for the Deaf and Hard of Hearing. She had been their webmaster, tech guru, served on many committees and traveled around the state. She has an energy and drive and an innate knowledge of what the current market needs are and how to accomplish them. Congratulations, Tanya. Well deserved!"

Joan Haber serves as the president of the Council, and she said, "I have had the pleasure of getting to know Tanya when we both served as members of the Council for four years. We were both charter members and did not know each other prior to the formation of the Council. What I found out about Tanya during those four years is that she knows what she is talking about. She is able to perfectly articulate what she knows, and she is not shy about sharing what she knows. During the task force meetings for medical accessibility and legal systems accessibility, Tanya was always prepared and right on target with her comments on how to include and represent the interest of CART in the simplest and most efficient terms. As I am not a late-night person, I was always amazed at checking my e-mails in the morning to see that Tanya was working on our projects and sending out e-mails at 3:00 a.m. Besides her professionalism, her intellect, and her many creative talents, Tanya is just an all-around dynamic and fun person to be with during happy hour. I

have missed her the last few years since she left the Council, but I know that she is always out there working hard and representing CART in the best possible light around the country. Congratulations, Tanya. You're the best!"

Chris Littlewood, one of Tanya's consumers said, "I would like to share kind words about Tanya English. I know her



*Continued on page 22*

## EMDSA Winner...

*Continued from page 21*

as a great person who is always willing to help with great abilities as a court reporter and a CART provider. I am very hard of hearing, or late-deaf. As you know, I have depended on CART services for meetings and speeches. Tanya has always provided great service as a CART provider making the confusing understandable and allowing me to participate where I otherwise could not because of my degree of hearing loss. Tanya has been a great asset to the Florida Coordinating Council for the Deaf and Hard of Hearing."

Another one of Tanya's consumers took a class in Australia, and Tanya traveled to Australia to provide CART for him. It was a month-long seminar that he had to take over there. Someone had to fall on the grenade, and it was Tanya! He is now working in a law office and has a very promising career. He said that he has known Tanya for a long time. "She has captioned all of my classes at Florida International University and FIU Honors College classes. Without her unconditional assistance, I would not have been able to actively participate in my classes, much less graduate with honors."

He was a recipient of an Honor Society Internship in Australia where Tanya selflessly offered her services. "We flew half-way across the globe, and we were able to share this experience. Moreover, Australian English is not the same as American English. Without Tanya's service, I would not have had that kind of experience."

And lastly, Tanya's friend Stephanie Vestal said, "Tanya embodies integrity, fearlessness, and dedication. I am blessed to have worked with her, but even more blessed to call her friend."

Tanya never sits still. She pushes the envelope all the time. Tanya always has the needs and the service for people with hearing loss in mind, and I am proud to know her. Congratulations, my friend.

## Caron Patnode Presented with the Arlene P. Sommers Award



*L to R: Diane Emery, Immediate Past President Susan Wasilewski, and Caron Patnode.*

Caron Patnode, a court reporting instructor at Erwin Technical Center in Tampa, Florida, was presented with the Arlene P. Sommers Award at the 2010 Annual Business Luncheon. This award is bestowed on a court reporting educator who has displayed the highest ethical and moral standards and who has made the greatest contribution during the fiscal year to the education of court reporting students.

Caron has her degree in education and taught at the elementary, middle and high school levels before accepting the position of court reporting instructor at Erwin eight years ago.

The following is an excerpt of Caron's heart-felt acceptance speech at the business luncheon in St. Pete, Florida.

"There are not a lot of times that educators are recognized. This is quite an honor for me because I am not a court reporter. When they told me that I would be teaching court reporting I thought, 'My gosh, you

might as well ask me to repair a car!'"

"I went in and I have found that each and every one of you are so special because you do something that I wish I could do. I can't do it yet, but I am trying to work on it."

"I tell my students, 'This is so difficult.' What I went through is nothing compared to what you have to do."

"I think that you are amazing people; your skill, your dedication. I just wish that we could have more people do it. A lot of people, they just really can't. They try; they give it their best. It's just so awe-inspiring. I am just so honored to be a part of it."

"I thank you for this award."



# Congratulations... You Did It!

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

- |                          |                         |
|--------------------------|-------------------------|
| Danielle M. Ahren        | Lucille M. Huttle       |
| Betty G. Althoff         | Sherrill L. Jackson     |
| Ann S. Beilstein         | Yvonne LaFlamme         |
| Christine E. Bordenave   | Ana M. Lobato           |
| Mercy C. Borroto         | Bobbie Jo Makowski      |
| Tamara Buerkle           | Teresita McCall         |
| Autumn Captain-Kesterson | Paula Marie McGuirk     |
| Melinda L. Colchico      | Lynn A. McKittrick      |
| Yvonne Corrigan          | Nancy S. Metzke         |
| Tracy K. Costello        | Dana S. New             |
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| Marilyn M. Highland      | Carol H. Williams       |
| Dawn A. Hillier          | Stacy Smoak Zimpel      |
| Cynthia Hopkins          |                         |

Many thanks to the October 2010 Florida Rules and Ethics Seminar panel members for their dedication and hard work: Cindy Bender, RPR, FPR; Diane Emery, CMRS, FPR (First-Time Presenter!); Jennifer Gaul, CMRS, FPR; and Paulita Kundid, RPR, CLVS, FPR.



## September 2010 NCRA Test Results

Congratulations to the following person who became certified as a result of the September 2010 CLVS test:

**Certified Broadcast Captioner (CBC)**  
*Barbara Diaz Daly - Boynton Beach, FL*



## More of "Gotta Love That Latin!!"

By Lisa Selby-Brood, RPR

Okay. Back for Round 2 on this one!! I tell you, I have sheets of this stuff! Truly, if you start to study Latin, you will learn the words (duh!) like any other language, and you won't get so thrown by them. But here are a few goodies, plus some regular English words that I just have to throw in because I think they're really funny!

**NUNC PRO TUNC** (Sounds like nuhnk proh tuhnhk): This one sounds just like it looks. I love this one! Kind of rolls right off your tongue. Fun to write, too! Anyway, the Latin is "Now for then," and basically it is a judgment or order by a court correcting usually a clerical rather than a judicial error. It applies retroactively to an earlier ruling.

Say, for example, there's a divorce. For some unknown reason, the final divorce decree never got filed, so therefore, the divorce is technically not final. This could cause huge problems, say if one of the parties decided to remarry! A nunc pro tunc order would be issued by the court making the divorce final **RETROACTIVE** to the earlier date.

**RES IPSA LOQUITUR** (Sounds like rayz ip-sah loh-quit-her): This one pretty much sounds the same as well, but don't ask me for a brief for this word! Actually, I haven't heard it come up much, but I remember this from when I was in school. The Latin means "The thing speaks for itself." The doctrine of res ipsa loquitur states that the elements of duty of care can sometimes be inferred due to the very nature of an accident, even without direct evidence. (An example would be getting hit by a rock that flew off a passing dump truck.)

**IPSO FACTO** (Sounds like ip-soh fact-toe): I like this one, too. It's Latin for "By the fact itself." (An example would be an alien, ipso facto, has no right to a U.S. passport.)

**CORPUS DELICTI** (Sounds like corpus dee-lick-tie): All right, class. We all better know that "corpus" means "body." Corpus delicti means "body of crime." It doesn't refer to an actual body, as one person I knew made the mistake of saying, "They can't find him guilty of the murder, because there's no 'corpus delicti.'" (I loved this person dearly, so I didn't have the heart to correct her. She was referring to the fact that the body was never found in a murder case.)

Anyway, it refers to the fact that it must be proven that a crime has occurred before a person can actually be

convicted of committing same. In other words, corpus delicti would be the body of evidence, so to speak. For example, you can't charge somebody with larceny if you can't prove that something was taken.

In the case of murder, I'm sure there are plenty of people sitting on death row right now who got convicted of a murder saying to themselves "How could they convict me if they didn't find a body?" Answer: Good circumstantial evidence.

Okay. Enough Latin! Here are some words that are just plain funny to me! They don't sound anything like what they look like (well, maybe one does), and they're in my .dix exactly the way they **SOUND**.

**SEAGUE** (Sounds like SEG way): It means a smooth transition from one thing to another. This case or this doctrine or this line of questioning seagues into my next point, something along those lines.

**HYPERBOLE** (Sounds like high-PUR-bowl-lee): This one has to be my favorite! It's a figure of speech, kind of like a simile but not quite. Saying "This thing weighs a ton" when it doesn't weigh anything near that, or saying "We knew each other about 100 years ago" are examples of hyperbole. This one, believe it or not, is in my .dix as hyper-bowl. I'm sorry. I can't do it any other way. Okay. I'm weird.

Last but not least (my boss loves this one because she uses it a lot):

**BAILIWICK** (Sounds like BALE-e-wick): Originally it referred to an area of jurisdiction of a bailiff. Today it usually means a sphere of authority or expertise. The first time I heard it used by my boss was when I had some question about something going on down at Crime, and she said (in an e-mail, of course), "Not my bailiwick. Ask Sandi!!"

Okay. This is way long, so I'm going to wrap it up.

Students, **STUDY** the English language! The more familiar you are with it, the better you will be at your job. I can't stress this enough. Read a book.

Until next time.....KEEP WRITING!!

## DRESSED

FOR  
SUCCESS

Whether you are a student or a seasoned reporter, dressing for success is important in the court reporting field. Anyone who is looking to become a successful professional out in the working world can benefit from this article. You don't have to spend a fortune on clothes to look professional. In this article I will outline the ways I shopped for professional outfits from court reporting school to how I shop today.

At our court reporting school we had a fashion show to show the way to dress out in the professional arena. I bought my first suit at Lord & Taylor. I think it cost \$125. It broke the bank. I started buying at the flea market. There was a vendor selling new Ann Taylor, Calvin Klein, Anne Klein, et cetera, name brands, and two for \$10. That's right, this began my search for high-end, low-priced professional clothing.

I would shop the sale racks. Don't be shy. Leave your pride and ego at home. In this economy you will be a hero in your household. I would buy skirts, mostly black, and then get a variety of jackets that match the material of the skirt.

Secondhand stores are great for business shirts to go under the suits. First look for the colors you want, then for the material, then for the newness. Some items at secondhand stores actually have the original tags on them.

This goes for men's suits, pants, and shirts. I usually see male reporters dressed professionally. They can almost look like waiters wearing the same white shirt and black pants day after day, though. Changing the color of a shirt can enhance your look. If you haven't been tie shopping lately, check them out. There are a variety of colorful ties out there that brighten up an outfit. It also gives everyone something to talk about while waiting for the witness to appear at the deposition. It is also a good way to meet some new clients while waiting in the hall of the courthouse for a court proceeding to begin.

Let's talk about the important things now, shoes and accessories. Less is better. Things have changed a little over the years, but not much. The preference is still closed-in shoes and stockings. Living in South Florida, I have seen the trend change and some women are wearing sandals.

Again, let's make a good impression in the legal community by showing that we are professionals. Stockings are not mandatory for the working woman these days. Years ago they were a must. After all, we are in South Florida where at times it feels like you are walking in a sauna on your way to a deposition or hearing. The choice is yours.

So, needless to say, please don't let me see you walking into the courthouse with a jogging suit on and tennis shoes. Yes, I've seen it. When going into the courtroom, judges respect our profession when they see a reporter with a jacket over their skirt or dress. To certain judges it is mandatory. They will reprimand the attorney and ask where his jacket is. Don't get caught in a judge's courtroom who expects a jacket and you have on a sleeveless top with no jacket handy. This is important today, as more and more courtrooms want to replace live reporters with electronic equipment. So, let's make a good impression.

In the end, take an extra look in the mirror before leaving the house to get to your job a half-hour early and see if you're the professional you would hire for a deposition or trial. Always remember, when you look good, you feel good. There's nothing better than a court reporter who looks good and has a good attitude to make a client want to keep using them for their next jobs. It's up to each and every one of us to keep our professional image alive. There is no excuse not to dress professionally. You will make more money and be respected by your peers. Today I shop whenever I have down time and am near a major store. I will go to the sale rack and look for suits. I have been able to pick up a new suit for \$25 to \$50. Once your paychecks start to grow, you can budget wisely and pick up a new suit once a week or once a month. In no time you will have the wardrobe of a professional.

If you feel intimidated or don't know where to start, please feel free to call me any time. I would love to give you tips on how to shop for your professional wardrobe. Deborah Harris, (954)454-9511. I am usually up late working on my transcripts. After all, our work is never done.

Enjoy your journey and walk with pride.

## Florida Court Reporters Association

### Code of Professional Ethics

#### A Member Shall:

1. Conduct oneself professionally to serve the best interests of the Bench, Bar and public, and to provide the highest standard of practice.
2. Have knowledge of and follow local, state and federal court rules applicable to court reporting and the protection and production of the record.
3. Be truthful and accurate when making public statements or when advertising the Member's qualifications or the services provided. The Member shall accurately represent qualifications regarding level of knowledge, skill or competence of court reporting services required.
4. Ensure all litigants are treated impartially, equally, and fairly, and promptly offer to provide comparable services to all parties.
5. Preserve the confidentiality and ensure the security of information entrusted to the Member by any of the parties.
6. Accept no assignment that may represent or give the appearance of a conflict of interest. A Member shall disclose any conflict or potential conflict that may arise.
7. Refrain from giving, directly or indirectly, any gift to attorneys, clients, witnesses, insurance companies, or any other persons or entities associated with the litigation or reported proceedings, or to the representatives, employees, or agents of any of the foregoing, except for items that do not exceed \$100 in the aggregate per recipient each year.

#### FCRA's Commentary on Provision No. 7

##### Discussion

Purpose of Provision No. 7: The Florida Court Reporters Association adopts the restrictions contained in Provision No. 7 because the practice of giving items of value to attorneys, clients, or their staff could create, in the eyes of the public or others, the appearance that the reporter and/or firm holds some partiality or favoritism toward the recipient; therefore, these practices undermine and dilute the integrity of the court reporting profession and the status of the court reporter as a neutral and impartial officer of the court.

**What is a Gift?** Gift, for purposes of this code, is defined broadly to include any item, gratuity, favor, entertainment, hospitality, or other item having monetary value.

## Florida Court Reporters Association

Incentive programs and reward programs are deemed impermissible under the terms of this code. A gift is a voluntary act which does not require anything in return. A gift given in connection with a particular court reporting assignment, where terms of the receipt of such gift have been prearranged, is impermissible under the terms of this code. Anything of value offered with any contingency or that requires an action of fulfillment of certain obligations on behalf of the recipient would thereby change the nature of the transaction from a "gift" to an "incentive" or "reward" and is impermissible.

FCRA recognizes that gifts of nominal value, such as pens, pencils, coffee mugs and other advertising paraphernalia, or modest forms of meals and entertainment, do not compromise the reporter or firm's appearance of impartiality and are permissible.

**What is the Value of a Gift?** The size or value of a gift is measured by its retail or fair market value. Fair market value is what the recipient would reasonably expect to pay if they were to purchase the gift for themselves from generally accessible sources. The actual cost incurred by the firm or individual providing the gift is irrelevant.

**What is the \$100 Aggregate Limit?** Such gifts that do not exceed \$100 in aggregate value per recipient per year are considered nominal and are permissible. These aggregate limits apply to the individual person who is the recipient and beneficiary of the gift.

**Pro Bono Services Allowed:** Provision No. 7 also recognizes an exception allowing for members to provide pro bono services as defined by the NCRA Guidelines for Professional Practice or by applicable state and local laws, rules and regulations.

**Adhering to the Spirit of the Provision:** Members shall adhere to the spirit of the provision, as well as the letter of the provision, regarding gift giving and avoiding the appearance of impropriety. For example, to repeatedly give gifts valued under \$10 to the same recipient in order to exceed the \$100 aggregate limit would violate the spirit of the provision and be impermissible. Elaborate or complicated schemes to obfuscate the value of gifts offered or to direct gifts to a single recipient through different staff members from the same firm in order to exceed the limits of Provision No. 7 would similarly violate the spirit of the provision and be impermissible.

The purpose of the gift giving restrictions is to discourage practices by court reporting companies and/or individual court reporters that in the past have been viewed to undermine the critical role court reporters play as impartial and neutral officers of the court. The purpose of these restrictions is not to inhibit legitimate forms of price competition. These restrictions are similar in scope and nature to those placed on other professions both within and outside the legal field.

## ETHICS AND PROCEDURES CORNER

By Professional Ethics Committee: Honorary Chair: Shirley King; Chair: Jennifer Gaul

Members: Diane Emery, Cindy Bender, Louise Johnson, Paulita Kundid, Cathy Phillips, Betty Sue Vincent, and Donna Kanabay

### LAWYERS TO BE RESPONSIBLE FOR REDACTING CONFIDENTIAL INFORMATION IN COURT FILINGS

There's a new Florida rule in town that everybody's been talking about. Many of you out there are questioning what this rule means to us as court reporters: 1. Are we going to have to identify sensitive material? 2. What is all this redaction post-production going to do to the integrity of our record? 3. Are we in any way responsible if something slips through that should not have?

After an interesting forum discussion on a Jacksonville news article, I pulled down the Supreme Court rulings on this confidential information issue to read the actual wording of SC07-2050 and SC06-2136. You can read these for yourself. Just Google SC07-2050 or SC07-2136. They pop right up. The forum question was basically, does this new rule affect court reporters in the field; and, if so, how?"

First, here is the article that set this off.

9/13/10 edition of *The Florida Bar News*

Lawyers will be responsible for redacting confidential information in court filings

By Gary Blankenship, Senior Editor

'Quick now, do you know what the "Notice of Confidential Information within Court Filings" is?

That form, part of Rule 2.420 of the Rules of Judicial Administration, must accompany any court filing as of Oct. 1 that includes confidential information. The form lists 19 specific items that should be confidential in court records, from Social Security and bank account

numbers to juvenile delinquency records and grand jury records.

It's part of a major overhaul of the rule, part of which became effective earlier this year and part of which becomes effective on Oct. 1, that changes the way confidential information is handled in court records and by judges.

If you don't know about the form and the rule changes, you could wind up accidentally putting confidential information about your clients in the public record, where it eventually may be viewed online.

"The new Rule 2.420 information is so important that the Bar felt compelled to quickly respond to the need to disseminate this information Bar-wide," said Terry Hill, director of the Bar's Programs Division. "The best way to reach the masses was to utilize CLE delivery technology and make a two-hour program available to all Bar members as a 24/7 Online CLE, an on-demand program at no cost to the Bar member."

"Every document that you file and everything you say in a filed document is going to have to be reviewed, and it's going to be the filer's burden to determine at the outset whether any of the 19 exemptions are applicable," said Sandy Solomon, who chaired one of the many committees that had input on the rule. "It makes lawyers responsible for everything that gets into the public domain."

That confidential information form helps

the clerk identify confidential matters and ensure they don't make their way into public records.

But the rule is more complex than just filling out a form. Lawyers who think a filing has information that should be kept confidential, but doesn't fall within one of the 19 automatic exemptions in the form, must file a separate motion asking a judge to keep that information from the public eye. The rule sets out how to ask for that and what factors the judge must use in granting or denying the motion, plus a time limit for ruling.

Those motions, said Solomon, have "to be specific enough to address the issue without revealing confidential information."

Similarly, if the clerk thinks a lawyer has wrongly claimed confidentiality under one of the 19 items in the confidential information form, the lawyer must be notified within five days. The lawyer then has 10 days to file a motion in court seeking to keep the information confidential, or the clerk can automatically make it public.

There are also rules, said Solomon, for notifying nonparties about confidential information requests, and procedures for those nonparties to petition the court, either to keep information confidential or to make it public.

Other parts of the rules, and corresponding sections of the Rules of Appellate Procedure, address handling confidential records on appeal.

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# ETHICS AND PROCEDURES CORNER

## LAWYERS TO BE RESPONSIBLE FOR REDACTING CONFIDENTIAL INFORMATION IN COURT FILINGS

*Continued from page 28*

It pays to know the rules. Lawyers can be sanctioned if they're careless and allow confidential information to be made public, or if they ask for something to be kept confidential without a good faith belief that it should be kept under wraps.

"It's intricate, there's no question about it, and it deserves attention," said Solomon. "I've circulated the new rule around to all of the lawyers and paralegals in my office, and we've conducted meetings to discuss the rules, and all of the lawyers will be required to take the upcoming (Bar) CLE on the rule."

Marion County Clerk of Court David R. Ellspermann represented clerks as part of the process rewriting Rule 2.420. He said clerks are working hard to make the confidentiality rules work. He noted his office will have the confidential information form online, and some clerks are getting software to help scan filings to identify confidential information.

"This is a major, major change in the process of the judicial system, and it's one that's going to create a need for the courts and clerks to work together like they never have before," Ellspermann said. Not the least of that, he said, will be clerks working with local bars and others to educate lawyers, clerks, and pro se litigants about the rule requirements.

Randy Long oversees technology issues for the Florida Association of Court Clerks. "We have to have a huge education process and program to be developed to get the word out to the bar and clerks and the citizenry who might be filing pro se," said Long.

Solomon said many revisions to the rule have been effective since March, and some other revisions were approved even earlier. Only the section dealing

with the 19 specific confidentiality exemptions and related matters go into effect Oct. 1. Yet he said many lawyers and judges remain unaware of such things as the basis on which rulings on confidentiality matters must be made and the time standards for handling motions and rulings.

There were two factors spurring changes to the rule, said Solomon. One was the revelation in news reports that some jurisdictions were keeping secret dockets to protect confidential information, but which resulted in some cases of closing information that should have been in the public domain.

The second impetus is the coming electronic revolution in the courts, which includes electronic recordkeeping and public access, as well as electronic filing.

The complexity and importance of the issue is reflected in the committees that were involved in drafting the rule. Much of the work was done by the Committee on Access to Court Records, which began with earlier recommendations from the Committee on Privacy and Court Records. At various times, the Rules of Judicial Administration, the Criminal Rules Procedure Committee, the Civil Rules Procedure Committee and the Appellate Rules Procedure Committee worked on the rule, as did the Special Joint Committee on Changes to Rule 2.420 and a special Consolidated Rules Committee, which Solomon chaired.

Besides those groups, comments were filed by various counties, court clerks, the First Amendment Foundation, the Reporters Committee for Freedom of the Press, the Florida Public Defender Association, and the Florida Prosecuting Attorneys Association, among others.

"This stuff is very interesting and very important work," said Solomon. "The people who work on this are some of the brightest lawyers and judges from around the state."

Want more information? Ellspermann and Long said lawyers can check with their local clerks, many of whom are preparing educational programs.

My first observation when I finished reading this new rule is that there is a BIG HOLE in this whole process. Who is controlling this information once it is put out for transcription and before it goes to the court for a ruling on its confidentiality? Transcriptionists have no responsibility for safeguarding this information.

FCRA/NCRA needs to jump on this issue with everything we have and make this point to the legislature or the rules committee and everyone we can get to listen. All these proceedings MUST be in the hands of a bonded professional who has obligations of confidentiality to the court - i.e. notary/court reporters. Another case for certification of court reporters! No, I am not saying we should be responsible for identifying the specifics, just that we are already charged with maintaining confidentiality of the raw material. Billie Jo's aunt is not!

If I recognized this so quickly, you know the bad guys have already figured out the weak spot. The potential abuse factor is enormous and should have been addressed in all of these rules. Maybe with all this manipulating of the record, attorneys and judges will reassess the prudence of having Billie Jo's aunt or a bank of foreign transcriptionists having access to this very sensitive information before it is ruled confidential or sensitive.

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## ETHICS AND PROCEDURES CORNER

### LAWYERS TO BE RESPONSIBLE FOR REDACTING CONFIDENTIAL INFORMATION IN COURT FILINGS

*Continued from page 29*

We need to emphasize this fact every time this topic comes up when attorneys are present. If they are going to be sanctioned if sensitive information gets out, they may once again remember a major reason court reporters were created in the first place.

Perhaps the rule writers feel it is protected by the requirement that the clerks scan for this information before it is sent out for transcription. Such scanning would require labor-intensive searching of massive amounts of audio files by court staff. I can't really see already overburdened clerks whose ranks have been cut to the bone being able to keep up with this demand. I am not saying that reporters should make those decisions either, just that as a professional and an officer of the court, we are already bound by confidentiality requirements. At least we would keep the information safe by not passing it on to anyone who happens to ask for it.

Does this mean that transcriptionists will be certified? I laugh out loud at the incongruity of certifying transcriptionists when for close to 50 years FCRA has been trying to get Florida court reporters certified.

#### **WHAT I GOT FROM MY READING OF THE RULES**

**TYPES OF INFORMATION:** There are a myriad of newly spelled out conditions to be met. As court reporters, I think we should be thankful that we are not responsible for identifying this sensitive information and that we are best served to leave this burden on the better-paid shoulders of the attorneys. I send my sympathy to the Clerk's Offices around the state. What a nightmare!!

**CRIMINAL CASES:** Having done a lot of criminal work in my career, I have always been cognizant of the importance of guarding a confidential informant's private information, therefore my willingness to bring to an attorney's attention that they may inadvertently be identifying info in the transcript. An informant's life is at stake in most of these cases. E&O never entered my mind in those cases. Early on, I was the court reporter in a deposition of a confidential informant who was brought in from another city to help guard against him being accidentally identified on the record. My transcript was combed through by all sides before it was printed in final – and I had no issues with the integrity of my record under those circumstances. Unfortunately for this CI, despite all the elaborate precautions the detectives took, he was dead before he got home. No, it was in no way the fault of the transcript, but it certainly emphasized the greater human responsibility involved with our job.

**INTEGRITY OF THE RECORD:** These new rules cover the gamut – and I mean that literally – from criminal cases to juvenile to family court to all types of civil cases. Since the court reporter is not being included in the responsibility to identify them, I see no reason for court reporters to be concerned about (1) identifying them beforehand; or (2) the integrity of our record after it leaves our hands.

**COURT REPORTER NOT CHARGED WITH PRE-FILING IDENTIFICATION OF THE MATERIAL.** I was reassured by this reading that the onus has not been put on the court reporter to assist in policing this issue – and my suggestion is that we leave that alone. The clerk and the attorneys are being charged with reviewing everything filed, which

sounds like a logistical nightmare for the clerk's office. As court reporters, we do, however, have that continuing responsibility of keeping all material confidential entrusted to us.

**FILING:** There was one phrase that caught my eye as a possible issue. I was alerted to a phrase in Rule 2.420 (d) (1) "...a filer at the time of filing shall: indicate whether any confidential information described..." The caution flag that went up for me is the knowledge that there are still instances where the attorney will ask the court reporter to file the original with the court. I know that most of us no longer do any of the filing, but there are occasions when we are asked to file it as a matter of expediency. I think I am going to take the position that court reporters should refrain from being viewed as the "filer." If we are asked to get the original to the courthouse, we need to be absolutely certain that there is a statement on the record of the request, which should then show the court reporter is only acting as a courier in the filing. In fact, our clerk's office requires this request now before they will accept a transcript from a court reporter to be filed. I can see some ambitious lawyer taking issue that the court reporter somehow now becomes responsible for the confidential information. So I think we should be careful of this issue. Also, we often file court transcripts as a matter of course. I would suggest that we stop that for the time being. Somebody is supposed to review that BEFORE it is filed, and we sure don't want it to be us.

I invite anyone else with comments on this issue to email me at [shirley.king@kingreporting.com](mailto:shirley.king@kingreporting.com).



**Q. When I insert the date in letters I write using Microsoft Word 2003, the date is saved when I save the document. When I later open the file, the date in the document is changed to the date I opened it. How can I stop this from happening?**

A. When you insert a date code into a Word document using Insert > Date and Time, the option exists to automatically update the current date each time you open the document. While this can be a time-saving feature if you frequently have to update forms, memos, letters, etc., it can also be highly annoying, if you don't.

If you prefer the date to always appear as the date first entered, uncheck the "Update Automatically" check box in the Insert > Date and Time dialog box.

**Q. My laptop recently started making a loud whirring or humming sound. I can also feel a vibration coming from the machine. It is not the CD drive because there is no CD inserted. Do you think it's a problem with the hard drive itself? Thanks for being there, Mr. M.**

A. Strange noises and vibrations are not a good thing emanating from one's computer or one's gastrointestinal tract. From your description, it does sound like the hard drive — which is a circular plate that rotates around a fixed hub — is not balanced. Think of it as you would a tire that is out of balance on a car, which then creates a wobble, that results in a vibration, that can ultimately destroy the wheel bearings and cause the wheel to freeze.

If that happens on a computer, the good news is that it will not destroy the data on the drive, as long as the drive is spinning. The bad news is that it can be quite expensive to recover data from a frozen or failed drive. If that occurs, drive replacement is the recommended course of treatment.

**Q. I somehow managed to delete my MS-DOS prompt. If I go to Start > Programs > Accessories menu, it's not there. I still occasionally dabble with MS-DOS or the command line, so is there any way to retrieve it?**

A. Yes. To see your DOS prompt again, click Start > Run and type "command" (without the quotes), then press Enter or click OK.

**Q. I had to call my ISP for tech support and was connected to an automated voice-mail system that was really frustrating. Do you know how I can get a list of reliable ISPs in my area that provide decent technical support?**

A. The best thing to do is speak to other individuals in your area and find out who they use for their Internet access, and how satisfied they are with the service they receive. You might also call several computer stores, repair shops, and computer consultants. You just can't beat word-of-mouth recommendations for something like that.

Chances are that any local ISP that's been in business for a number of years is doing something right or they wouldn't survive in what is generally a very competitive arena.

Keep in mind that "small" or "local" doesn't always equate to "good." I hear from people every week with a myriad of complaints about ISPs, large and small. The larger ones tend to route customers to endless voice-mail or tech support that's local — if you happen to live in Bangalore. With smaller, understaffed ISPs, you generally have to leave a message on an answering machine or send an email — which isn't very helpful if the problem you're experiencing is a lack of connectivity.

## Mr. Modem's Don't Miss 'em (DME) Sites of the Month

**ANIMOTO:** Generate slide show videos using your own uploaded photos and music. Select the pictures you want to use, arrange them in the order you prefer, select a music track, then sit back and let Animoto work its magic. The finished product is a polished presentation, complete with visual transitions and special effects. Thirty-second clips are free; longer clips cost \$3 each, or sign up for \$30/year for unlimited videos. [www.animoto.com](http://www.animoto.com)

**ATMOSPHERIC OPTICS:** A stunning collection of photos that illustrate the strange and beautiful visual phenomena created by light, weather, and the atmosphere. Included are interesting photos and explanations for everything from rainbows and ice halos to nacreous clouds and crepuscular rays. (Health Tip: Be sure to wear your crepuscular block whenever you go outside.) [www.atoptics.co.uk](http://www.atoptics.co.uk)

**GROUP CARD:** With this site, a group of people can sign and send a free e-card, which works well for sharing a card with office colleagues, friends, or family members. The selection isn't much different than what you would find in the card aisle at your local drugstore, but anything that avoids spending five bucks for a paper card works for me. [www.groupcard.com](http://www.groupcard.com)

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# STOP THE INSANITY OF GIFT-GIVING!

By Paulita E. Kupid, RPR,  
FAPR, CLVS, FPR



Gift-giving is climbing to new heights and depths and getting crazier and crazier. It is affecting all of our businesses, our morale, our professionalism, and our industry. Reporting companies who would have never considered gift-giving may cave in to survive. How sad is that. To say nothing can be done is not good enough.

There are many things we all can do. Education is key. Knowledge and action is power. Placing educational articles and informational advertisements in your local and state Bar publications and educating attorneys, paralegals, secretaries, and the general public about the pitfalls of gift-giving is vital and must be done as quickly as possible to Stop the Insanity. FCRA sponsored The Florida Alliance of Paralegal Association (FAPA) Ethics Seminar and continues to educate their members on the insidious explosion of gift-giving incentives and how to keep their law firms out of hot water.

Gift-giving cards, iPads, iPods, and spa get-aways to reward secretaries for scheduling depositions is unethical. This type of marketing strategy not only places the court reporter at risk with FCRA's and NCRA's Code of Professional Ethics and Professional Practices, but it places the attorney

in jeopardy with his own Bar Code of Ethics by not disclosing receiving gifts to his client who is ultimately the legal receiver of such gifts as outlined in FSC Rule 4-1.8: Conflict of Interest.

The IRS implications of accepting gifts are real and need to be shared with every attorney. Stories like the one below about an Orlando attorney who was able to checkmate his opponent because his staff had received incentive gifts catch on like wildfire in the legal community – especially when attorneys are looking for any kind of edge against their opponent.

Defense attorney in a workers' comp case requests a hearing for reimbursement of taxable costs, which include transcript fees. Plaintiff's attorney points out that if such a hearing were to take place, he would request that the cost of the gift cards accepted by Defense attorney's staff in exchange for scheduling the depositions be deducted from the costs. If Plaintiff succeeds in reducing costs, Defense will be required to pay his fees for attending the hearing (\$6,000 plus). Defense decides to forego the hearing and stipulates to paying Plaintiff's costs.

**STOP THE INSANITY!**

# Dear Nancy



Dear Nancy: After being away from court reporting for seven years to raise my family, I have decided to come back to work, but I am really nervous and scared. I'm not sure how to navigate back into the freelance field again after so many years, and the poor economy doesn't give me any confidence. I still hold the RPR, but I'm worried about new technology and can't just jump back in. What would you recommend?

Signed, Scared-o'-CAT.

Dear Scared-o'-CAT: Clever play on words, scaredy-cat! Wow, I don't think I've ever met anyone who is more nervous about working than about raising children. Becoming a mom scared the heck out of me. CAT software came with a manual, my kids didn't. But I got lucky, as my husband says, my kids are great. Why is it he doesn't credit me with a fine parenting job, and says I just got lucky? Well, let's not go there.

The best way to jump back in is to sit back out. Pretend you're a 225 student and head to court or to a deposition. If it's writing you're worried about, it will come back, kinda like riding a bike. But that reminds me of the patient who asked the doc if he'd be able to play the piano after surgery. The doc assured him he would. The patient thought that was great, since he couldn't play before surgery. (bada-boom.)

How was your writing seven years ago? If it wasn't clean, spend time with a mentor or other professional who can assist you in coming clean. I mean in your writing! If you need to upgrade or purchase new software, call your software vendor and ask for a demo. They're always willing to help. And then invest the time in a training session with one of their trainers.

I know the economy is sluggish and agencies aren't quick to hire, but if you sit out with an agency and assure them you're striving to be a great writer, they will notice. Call often and let them know you're available for jobs. Sooner or later

there will be that day you'll be there just when they need you, and they'll probably keep you around if you do a good job! Good luck jumping back in, and wishing you even more good luck as you approach the teen years. Yikes!

Dear Nancy: I HATE doctor's depositions. How do I overcome that fear?

Signed, Debbie Doesn't Do Doctors

Dear Debbie Doesn't Do Doctors: The first thing to remember is that a doctor is just like anyone else -- she puts her shirt on one arm at a time -- except sometimes she forgets to take off her stethoscope and it becomes more difficult. But that's her problem, not yours.

That said, being a true professional requires commitment to learning the terminology that will come up during a deposition. Will you be able to understand retinoblastoma when the doctor mumbles it from across the room? Do you know the difference between dysphagia and dysphasia? If not, you may not be able to swallow the testimony whole - or even talk about it.

Are you an RPR, RMR, or RDR? All of those tests include a vocabulary section. Having great credentials helps build confidence, and so much of writing great notes is all about your confidence. So if you don't have three awesome letters after your name, get on it. It will boost your confidence.

Doctors can be tough. But it's also true, the more you do 'em, the easier they are. It's like practicing. The more you do it, the faster (better) you get. I have found the most confident reporters try to specialize in an area, taking the same expert's testimony numerous times, and often getting requested by the doctor! Those reporters work to build their dictionaries bigger and better than anyone else. (They're the really cool ones who can write ferruginous bodies in one stroke.)

If you work with doctors sporadically, it may not be feasible to specialize. But take a moment the night before, Google the doctor's name and find out what her specialty is. Then search out terminology in that specialty, and spend some time creating briefs for some of the words and adding them to your dictionary. If you do that, even if the doctor doesn't say those particular words, I guarantee you will go into the deposition more confident than you've ever been. And if that doesn't work, take two aspirin and call me in the morning.

Dear Nancy: Two defense attorneys objected to the introduction of a document. The judge says to plaintiff's attorney, "You have (counsels'/counsel's) objections." I'm not sure whether to transcribe it as a singular possessive or plural possessive. I am inclined to go with plural possessive, You would have counsels' objections, but counsel is already plural, like children, so I'm thinking I need to transcribe it as counsel's. I can't decide and I need your opinion.

Signed, In Conflict with Myself

Dear In Conflict with Myself: Counsel is both a singular and plural noun (unlike children which is always plural.) More like sheep. You can have a sheep or many sheep. So a wolf in sheep's clothing is the same construction as many wolves in (many) sheep's clothing. Therefore, your first choice, counsel's objections, would be grammatically correct.

But since this is an advice column, remember, if counsel (singular) is a wolf, his objections will have some teeth. And if counsel are sheep (plural), the objections probably make for a baaaaad argument. BUT, if counsel's a fox and he's single ... well, you get the point!!

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



**By Tanya Ward-English, CBC, RPR, CCP, CRR  
and Gayl Hardeman, CCP, RDR, FPR**



Following the September 2010 airing of the Daytime TV spot featuring Deanna Boenau, Winner of the NCRA 2010 Realtime Speed Contest, Dee gave an interview to Gayl Hardeman for the CART and Captioning Corner.

**GH: Dee, I saw you on the show, "Daytime," and you did a great job representing our profession and the fine art and skill of steno writing. As winner of the 2010 Realtime Speed Contest, are there any tricks you can share with those of us who aspire to faster writing in real time?**

DB: My biggest trick really isn't a trick at all, but it's something everybody should be doing – going over your work. I think that idea is lost with the practice of supplying the unedited or rough transcript. Many captioners or CART providers may think, "I'm not being paid for an edited transcript, so I don't need to review it." How can your realtime translation ever improve if you don't learn from the mistakes you've made?

It may be time consuming at first to read your work, but as your writing becomes cleaner, you'll be able to proof your work as you're writing. To keep my review time to a minimum, I will insert an invisible "oops" mark to flag an area of text. When reviewing the file, I will pay close attention to the flagged area. If I stumbled in my writing, I'll study the text to see if there is a steno pattern I can develop to write the word or group of words shorter in the future. If I dropped or paraphrased, I would use audio sync to review those areas. Audio sync is a helpful tool

to court reporters, CART providers, and captioners. How can your realtime translation ever improve if you can't re-listen and learn from what you dropped?

In summary, the constant review of your work will develop your vocabulary and

recognition of words and groups of words. You'll naturally think of ways to write shorter and soon find yourself singing in the shower "Go on and write me up a 325, post my face wanted dead or alive, take my license, all that jive, I can't write just 225!"

**GH: You have done a lot of writing and observed a lot of captions in your career. Are there writing "ailments" you have seen in TV captions on a regular basis for which you could give us a "cure"? In other words, what causes some of these errors we see?**

DB: I have seen some very good captions, and I have seen some very bad captions that have left me wondering, where is the captioner's pride of ownership? Most of us have experienced stacks and splits. Some captioners don't count the stacks and splits as errors and blame it on the machine. Stacks and splits are very much errors and should be fixed with either machine adjustments, writing theory changes, or a combination of both. Because stacks combine at least two strokes into one, some can be incorporated into your writing, saving you strokes and allowing more time to process the voluble speaker.

I often see the overuse of pronoun replacement. It's discouraging to see a captioner never make one attempt at writing a name. I do, though, always remind myself that I don't know the challenging conditions the captioner may be working under, e.g., poor audio. To avoid overuse of the pronouns, I use a "memory macro," and

I have to say that is a favorite trick. I believe the memory macro was a result of Mark Kislingbury's ingenuity. To use the memory macro, I fingerspell the name or word and immediately execute the memory macro, which then enters a steno stroke in my job dictionary for me to use the next time I hear the name or word.

I also see errors in captioning that are slop captions. It's important to keep the captions readable. Viewers don't understand why completely wrong words are showing up, and these errors can certainly skew the meaning of the story. If it's getting fast, it's important to keep the captioning under control in order to convey the information accurately. The other side of the coin, too, is keeping it neat doesn't mean writing only the first sentence, middle sentence, and last sentence of a story. That's no good either.

Bad briefing can create puzzling captioning errors. Briefing should be done with caution. I do not use double-stroke briefs for frequent names or words. An example of what I do not use would be POM/POM for President Obama. Instead, I write President in one stroke and Obama in one stroke. I find that kind of briefing beneficial to my writing theory overall, and I won't have to worry about the cheerleaders shaking their President Obamas because I made a poor brief choice for President Obama.

**GH: Why is it when I watch captions I sometimes see @#\$%^&, stuff like that?**

DB: With the digital transition in television and phone lines, the problem can originate in a number of places. A weak cable or antenna signal will corrupt captions. A bad decoder chip in the television or cable box can play hide-and-go-seek games with your captions. I will watch my own captions on a program and will see letters missing and other subtle blips

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# CART AND CAPTIONING CORNER

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that might make a viewer think it was my mistake, but it's not. In fact, it's frustrating to me to see those blips after I worked hard to produce near-perfect captions in a not-so-easy program.

Digital phone lines also create garbled captions. This issue can be a difficult one to track and fix. It can be either on the captioner's end or the client's end, and a change can literally happen overnight. Nothing like waking up for a 5 a.m. newscast and realizing the phone company did something to your phone lines somewhere along the digital tunnels of circuitry.

**GH: What do you think is the best way to build a captioning dictionary?**

DB: During the beginning of my captioning career, I would sit at my desk with a newspaper and a pad of paper and write words down as I would read the articles. I would purposefully handwrite the words on a pad of paper because it would help me with word recall and recognition. I would also look up definitions as I created the list, but then the dictionary would drown my attention with its infinity pool of words. To narrow your source of words and keep your focus on point, there are great reference materials out there now for building a dictionary, so I would definitely check those out.

**GH: You mentioned in the show that a writer needs a breadth of knowledge; else, how can they write what they don't know? How do you recommend a future captioner increase his or her breadth of knowledge?**

DB: Reading. I wish I read more in my days of youth – no thanks to Cliff -- and I wish I had more time now to just sit on the couch and read. You also increase your breadth of knowledge just by preparing properly for an assignment. Reading really does make you smarter all the way around, and I have a lot more reading to do!

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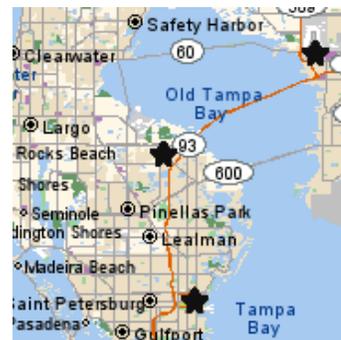
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