

On The Record

MARCH 2005



Houston Court Reporters Association

PRESIDENT'S MESSAGE

Greetings, Colleagues!

They say that March comes in like a lion and goes out like a lamb, so if the recent weather is any indication, it won't be long until spring is in the air! Each spring brings flowers and with flowers come bees – as in the kind of busy bees we'll soon find working hard for HCRA, so I'd like to extend a huge, advance thanks to all of you who have already volunteered to serve on this year's committees. I'm sure the months before us will be a rousing success for all, and will be attributable to the generously-donated time and hard work of all HCRA's board members, volunteers, and supporters. Last year, the cumulative efforts of these individuals resulted in a number of professional and political victories that will ensure the protection of our professional status and the respect it merits. We know the value of this and should heartily congratulate ourselves on what we've accomplished so far.

However, having rightfully affirmed our successes, we'd likely be wise to balance our pride with a bit of practicality and remind ourselves that without our continued good efforts, all of the hard-won advances we have made will mean nothing. The truth is that every professional and political crusade embarked upon by HCRA members, every opinion expressed, every hour spent in volunteerism – all are initiated and sustained with your professional well-being in mind, and, frankly, HCRA needs your help to maintain the momentum. A volunteering few hours a week is not only professionally advantageous, but meeting other reporters and exchanging war stories can be a lot of fun. If you just haven't yet found time to do your part, that's okay – if we court reporters don't understand "busy," who does? – it's never too late in the game (or the year) to begin. We're always grateful for even an occasional helping hand, so if at any point you get the bug and want to contribute to the cause, just give us a call – we'd love to have you join the team. It's a chance to make new friends, and it truly feels good to go that extra mile for your profession.

On another note (now that I've talked about what HCRA members can do for HCRA), let me tell what great things HCRA has in the works for you. Often, association members aren't privy to what is going on behind the scenes, so I'll give you a little taste of what you can look forward to in the next few months.

First of all, the HCRA Web site has been a bit behind the times, but I'm glad to let you know that it is in the process of being revamped and updated. With luck, we'll soon be able to boast a brand-new and regularly-maintained site that's filled with important information and offers convenient hyperlinks to useful sites. We hope to have all the work done by March 30th. In the meantime, we appreciate your continued patience.

Second, the nuts and bolts are still being tightened up, but we have a fun and exciting fund-raiser coming up. You wine connoisseurs out there, get your noses and palettes ready, because we're planning a wine tasting event sometime in the late spring. Watch the mail for your invitation over the next few weeks!

Third, the venue has not yet been determined, but be sure to mark your calendars for the morning of Saturday, May 21st, and join us for coffee and breakfast. One of our guest speakers will be a representative of HCRA's credit union, MemberSource (yes, we have a credit union!). All members of HCRA automatically qualify for membership to MemberSource, one of the largest credit unions in the city. Keep checking our new Web site as the date approaches for more information.

Fourth, we're calling all CSRs! If your license is expiring this year and you find you are in need of CEUs (or you just love spending the weekend enjoying an awesome learning experience with friends old and new), then plan to join us for our Annual Fall Seminar, September 24th and 25th, 2005, right here in beautiful Houston, Texas. We are working on securing both the venue and the speakers right now, so mark the event in your calendar and keep your eyes peeled for more detail when available!

Before I sign off, I'd like to remind everyone that your HCRA Board is here for you. This is your association – your professional voice – and we want to hear your input and your ideas so that this voice carries the right message. Any time you have suggestions, comments, or questions, please feel free to contact any one of the members. We're only an e-mail or phone call away, and if we don't have the information you need, we'll find someone who does – so, please, let us hear from you!

In closing, I wish for all my colleagues a productive and profitable March, and I hope to see you all soon.

THE NEWSLETTER OF THE HOUSTON COURT REPORTERS ASSOCIATION

GRAYSON R. CLEVINGER-DORR, EDITOR



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HCRA'S 2005 CALENDAR OF EVENTS

- 1/11 - Membership packet mail-out
- 1/13 - CSR Exam
- 1/18 - HCRA Board Meeting
- 1/26 - HCRA Association Meeting
- 2/8 - HCRA Board Meeting
- 2/12 - TCRA Board Meeting
- 3/15 - HCRA Board Meeting
- 3/16 - Spring Newsletter
- 4/1-3 - NCRA Mid Year Convention
- 4/8-10 - TCRA Firm Owners Retreat
- 4/12 - HCRA Board Meeting
- *4/26 - HCRA Wine Tasting Fund-raiser
- 4/30 - TCRA Officials Retreat
- 5/7 - NCRA Exams
- 5/11 - HCRA Board Meeting
- 5/13 - CSR Exam
- *5/21 - HCRA Association Meeting
- 6/9-12 - TCRA Annual Convention
- 6/14 - HCRA Board Meeting
- 6/16 - Summer Newsletter
- 7/12 - HCRA Board Meeting
- 7/21-24 - NCRA Annual Convention
- 7/27 - HCRA Association Meeting
- 8/16 - Board Meeting
- 9/14 - HCRA Board Meeting
- 9/16 - CSR Exam
- 9/24-25 - HCRA Annual Fall Seminar
- 10/18 - HCRA Board Meeting
- 10/19 - Fall Newsletter
- 11/8 - HCRA Board Meeting
- 12/3 - HCRA Christmas Party

“SAVE THE DATE”

Our annual seminar is just around the corner, September 24-25th, 2005 to be exact. So once again, we'd like to be able to round up all you guys and gals to come out and join the fun when the time comes. Be looking for more information coming your way this spring.

* Dates with an asterisk are subject to change. Please check our Web site as event approaches for more details.

**HCRA 2005
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AND BOARD OF
DIRECTORS**



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Deadbeat Attorneys - DBAs For Short

I put it off as long as possible. I make myself do it monthly because I find it so detestable. It usually involves my being in a VERY BAD mood when I'm done. It usually involves my having to interact with people who display several of my least favorite character traits: liars, people who have no idea what they're talking about, and people who don't care that they don't know what they're talking about.

What am I talking about, you ask? COLLECTIONS! Just typing it requires me to use capital letters. First of all, we should never have to make collection calls. After all, there's an agreed-to oral contract between professionals, and sometimes even a written contract, that says we are to be paid for the work we do. They need us to produce a product for them (as fast as you can, please – but I don't want to pay rush) and we do. Done deal, right? Not so fast. Ah, if it were only that simple!

I happen to be pretty good at collections. I usually have to turn one, maybe two invoices over to my attorney each year. The rest I manage to collect on my own. Let me give you a few helpful pointers that will hopefully make your life easier and your collection efforts more fruitful.

First of all, it's like they say in real estate – you have to remember three things: document, document, document. Your attorney (and you) will have a much easier time if you have the documentation to back up your claim. Begin at the deposition. Any attorney who does not sign an order form simply doesn't get the product; no contract, no product. An attorney unwilling to sign the order form is not a good risk. Make sure your order form covers several important elements. Mine looks like this at the very top:

- 1) I understand that, under the law, both I and my firm are personally responsible for the payment of invoices associated with copies of depositions and other items requested to be provided.
- 2) Invoices are due within 30 days. Invoices not paid within 30 days will be subject to interest charged at the rate of 18% annually.
- 3) Invoices that remain unpaid after a three-month period will be turned over to an attorney for collection. Any fees or expenses incurred as a result of nonpayment of invoices within three months will be the sole responsibility of the ordering party.
- 4) For the purposes of any subsequent litigation on unpaid invoices, venue will be in Harris County, Texas.

By signing this form, I assert that I understand and agree to the above terms and conditions. If I do not agree to the above terms and conditions, I understand that anything requested will be provided on a COD basis only

Once you have the signed order form (even if you have to fax it) then you have your written contract in place. Make sure you use a messenger service for delivery or get a signature proving receipt. Keep the receipt stapled to the rest of the information on the job.

Fast forward 90 days and they still have not paid. Surprise, surprise. At this point, you should have a call log attached to a copy of the invoice stating the date, action taken, person spoken to, and result of any conversations pertaining to the delinquent account. Before turning it over to my attorney, I usually try a few things that normally work and save me time, frustration, and money.

First, I actually get the DBA on the phone, if possible, and explain the law to them. Funny how that works. You need to know Government Code 52.059, Subsection b, which explains very clearly who is responsible for payment of your invoice. I also follow up with a very clear “collection letter” I send which explains how the cow ate the cabbage, as it were, giving them 30 days to pay. This date clearly identifies the end of my patience with them and the beginning of their relationship with my collection attorney.

Most collection attorneys will send a “30-day letter” to the offending deadbeat when they first receive your claim. They will demand that the DBA immediately pay your invoice and inform them that suit will be filed in 30 days otherwise. Most will charge you a percentage or standard fee for this. Most DBAs will then whip out their checkbooks and write the check to you FOR THE ORIGINAL AMOUNT - and guess who gets to pay your attorney? I include in my “collection letter” that I am giving them their 30-day notice under the law. They are further informed that at that point my attorney will be instructed to immediately file suit. This usually works! I actually had a secretary tell me the other day that they NEVER pay the court reporters until they receive a “30-day letter” because it helps with their cash flow problems. Nice, huh?

Recently, however, after five months of attempts and slamming my head against the wall arguing with a secretary who denied any kind of liability for her firm (no matter what the law says) I decided to try one more thing. I called and left a message for the firm’s managing partner; then I went to their Web site. I found the managing partner’s name and email address. I emailed him and let him know everything that had happened to date. He emailed back immediately and asked for more info. I received an email back within two hours apologizing and stating that the check was being drafted that day. After five months, that’s all it took, one email?

So, the bottom line is, it doesn’t cost me much to give them one last chance by calling the DBA’s boss and letting him know that the DBA is about to get THE ENTIRE FIRM sued. It usually works, except in those small boutique firms where there is no boss and no one seems to care what the law says. For these particular kinds of DBA firms, I’ve finally learned to just let it go and smile - as I dial my attorney’s number.

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Are We There Yet?

BY MICHELLE HELGERSON

I've come here today to talk about a condition called TSS, otherwise known as "Third Semester Syndrome." My name is Michelle Helgerson; and I have a form of what some people refer to as, "Are we there yet?"

How many of you remember the first week of school? As I look back now, I remember how easy the homework was. We were fledgling students in qualifying mode. I remember when I wrote my first sentence, how I couldn't wait to climb the paragraphs. Little did I know how quickly those paragraphs would turn into pyramids. I miss cat, scat, hat, and mat. Who knew "kept" and "crept" were not evil villains, just misunderstood words. And how about those machines? Who could forget the anticipation of going home and taking our machines for a test drive? How sleek they looked, with their green bodies and long black legs. Mine was the epitome of a Cadillac in a mechanic's wet dream.

So here we are now, as I stand here before you, at midpoint. The place where the effects of Third Semester Syndrome begin. It's like you're in this huge car race. I'll call it the Steno 200. In the beginning, the checkered flag seems far off in the distance. There is a popular saying, "The car has leaped through the dragon's gate." It means success. I leaped all right, right into the wall of, "Are we there yet?" off of turn No. 3.

TSS has five stages that can creep into your blind spot and do a bump and run on you at any moment. I can speak from experience. I've been bumped by all stages. The first stage is **Denial**, "I've got plenty of time to memorize 5,000 briefs and fuel up for speed." The second stage is **Shock**, "Oh, no, I've got 5,000 briefs to memorize and I'm so slow on my speed." The third stage is **Disbelief**, "I cannot believe I have not memorized 5,000 briefs and worked on my speed!" The fourth stage is **Anger**, "Aaaaagh!" and all that it implies! "Why can't I memorize these damn briefs!" I could have sworn I just saw the rabbit and the turtle pass me up on my speed. My mistake, it was just a kid on a tricycle. The last and final stage is **Acceptance**, "Screw it. My short term memory will kick into steno mode, and my long-term memory will take care of my dictionary. What's on T.V.?"

Don't let Third Semester Syndrome turn your Cadillac into a Sanford and Son Starter Kit. It's okay to be chained to the porch right now. It doesn't mean you can't still bark at passing cars. It means you're not afraid to try something new. Remember, an amateur built the ark; it took a professional to build the Titanic! Although my spirit stick has been damaged and I feel stuck in the pits, I know I'm still under a caution while the track is being cleared of debris such as extrapolation, pollution, and pages of paragraphs along the way. I can still shift the gears of life into the direction of the checkered flag.

As we race to Austin to collect our prize, gaining speed towards that margarita on 6th Street, we can look back to that fledgling student that we once were, an image of a student who was leaping at the gates of success and overcame this condition known as TSS. A bout with, "Are we there yet," is now nothing more than a distant ailment. Looking ahead, I can see across the finish line. That line where the days of sitting behind the wheel of that Cadillac, that beautiful machine that drives to the tune of "ching-ching," breathing a big sigh of relief saying, "Yes Sir, We Are There!"

**HOUSTON COURT
REPORTERS
ASSOCIATION
2005
INDUCTION CEREMONY AND
FIRST ASSOCIATION MEET-
ING HELD WEDNESDAY,
JANUARY 26, 2005
6:00—8:00 P.M.
JALEPENOS MEXICAN
RESTAURANT**



*Carolyn,
We all want to thank you for a
job well done. Your participation
and hard work have paid off!
We couldn't have done it without
you.*



"IS THAT YOUR SIGNATURE"

BY LISA SCHREINER, ACCURATE REPORTERS, INC.

If you are not printing your work, how is your work supposed to get signed? I do not know of any power of attorney that allows a government-appointed official of the court to turn over the responsibility of his or her signature on a court document to an individual who may or may not also be a court official. In a notary seminar, I was told that you are not allowed, under any circumstances, to have someone sign your signature, under official seal, on your behalf. You can have someone sign your name, with power of attorney, for personal stuff, but not for notarial duties, because it is a government-appointed duty. You are also recommended to not have a stamp with your signature on it. If you do, it is strongly advised that you lock it up, so no one can get access to your signature stamp. Your signature should be an original signature, for your own protection. If you have a stamp, they say you open yourself up to millions of dollars worth of liability, in a notary case.

I understand how not signing transcripts got started when electronic transcripts and electronic signatures were introduced. What I don't understand is whether or not it is legal for a court reporter to have an agent of a firm sign or stamp their name in an official capacity, even having been given a power of attorney. So far, no one has been able to answer that question for me.

I was speaking with someone about this concern. This person, in passing, asked a judge what would happen if they found out the transcript was not signed by the hand of the court reporter whose name was on the transcript. The judge, without hesitation, said they would throw the transcript out of their court. If this should happen, what damages do you think the court reporter could and would face? They are endless! The transcript could be a key factor in a case and the case could be lost as a result. The attorney could, in a best case scenario, simply ask for their money back. Who do you think would pay that? Why risk it? There are attorneys out there waiting to jump on the chance to get transcripts thrown out of court, for any reason.

If having someone else sign or stamp an official signature is legal, how is a reporter to know that the firm has not altered the transcript in any way, unintentionally or not? How can a court reporter know the printed version is to code if he or she never saw the final product? This could raise issues with the Court Reporters Certification Board.

The E-transcript software at my office does not put the line numbers outside the margin box; it puts them inside, which makes a big difference. The box margins may be altered, since E-transcript is not designed to print reporter transcripts to format code. If the box margin is not altered, then the font or pitch may be. E-transcript is a great product, but it is not designed to print jobs to format code.

Let's say the firm is using another software program to print your work. How will you know that that software is compliant or compatible for every single print? Your signature is on that transcript for a good reason.

I believe that only the court reporter should print and sign his or her work. As an independent contractor, your job is to provide a finished product, and I don't believe it is finished until your signature is on the printed product.

My authority as a notary is mine and no one is allowed to force me to do, under that authority, what I don't feel comfortable doing. Even if my employer purchases my notary seal and pays for my application, they still do not have the right to tell me what to do and how to conduct myself as a notary. It is a state-appointed duty. Your official capacity as a court reporter is the same, and I believe that capacity is stronger. I have not been led to believe otherwise. As a court-appointed officer, you can sign documents and place people under oath. Please look at this more seriously when people start telling you or asking you if they can sign your name.

TEXAS CERTIFICATION BOARD APPROVES STRONGER CONTRACTING RULES

The Texas Court Reporters Certification Board approved eight provisions strengthening the anticontracting language to the Texas court reporter certification rules. The provisions now go to the Texas supreme court for final approval. "This action brings additional clarity and specificity to the anti-contracting regulations Texas already had on the books," said NCRA Executive Director and CEO Mark J. Golden, CAE. "Both reporters and their clients will benefit from clearer and more explicit descriptions of the prohibited behaviors that can erode public confidence in the impartiality of the guardian of the record." Golden testified at a Board hearing January 13. NCRA and the Citizens for Impartial Justice also submitted comments to the Board. Eighty-three reporters, attorneys, judges, and firm owners were present at the hearing and registered their support of adoption of the items, while 16 parties present were in opposition. The Texas Court Reporters Association spearheaded the effort.

Texas already has rules to protect the impartiality of the record. The challenge, as other states also have found, is effective enforcement of that language.

The new language provides greater specificity about what constitutes a contractual relationship between a reporter or reporting firm and a party to an action. The language also clarifies what activities cannot be addressed by a contract for services. For example, under the new language, contracts for reporting services cannot establish rates or terms beyond a single case, and equal prices and services must be extended to all parties. Also, the reporter must be in control of the original transcript at all times, including control over the method and compensation for reporting services, until the transcript is certified and delivered to the custodial attorney.

Further, a court reporter or reporting firm cannot provide additional litigation support normally associated with the attorneys' support team, and no contract can prevent an attorney from using the reporter or firm of his or her choice. The new language also prohibits preferred provider lists that lock a reporter into specific terms or prices for future court reporting services.

The language came from model legislation developed last May by the Citizens for Impartial Justice and NCRA. A version of the model legislation is on the Public Policy and Advocacy page of the NCRA Web site. Regina "Reggie" McBride, RDR, CRR, chair of the Citizens for Impartial Justice, said, "This decision by the Texas CRCB is a big step in anticontracting enforcement and lays the groundwork for other states to follow. NCRA, CIJ, Texas reporters, and the legal community worked as a team to reach this positive result. The Texas reporters in particular really did their homework and put in some long hours, and their dedication, patience, and persistence paid off."

Permission to reprint this article was given by the NCRA Online News Flash

A LITTLE TIDBIT OF Q&A

Submitted by Joy Hemphill

- Q. Okay. Did you ever tell them that Mr. Jones had grabbed your breasts?
 A. No, I don't recall telling them that.
 Q. Okay. Did Mr. Jones ever grab your breasts?
 A. Yes.
 Q. Where did he grab your breasts?
 A. Where my breasts are located.

Glossary

Latin Terms and Phrases

Legal Terminology, Gordon W. Brown

a fortiori	with stronger reason; much more	bona fide	in good faith
a posteriori	from the effect to the cause; from what comes after	caveat	beware
a prendre.	to take; to seize	caveat emptor	let the buyer beware
a priori	from the cause to the effect; from what come before	caveat venditor	let the seller beware
ab initio	from the beginning	certiorari	to be informed of; to be assured
actio criminalis	a criminal action	cestui que trust	beneficiary of a trust
actio damni injuria	an action for damages	compos mentis	sound of mind
actio ex delicto	an action arising out of fault	consortium	fellowship of husband and wife
ad damnum	to the damage; money loss claimed by the plaintiff	contra	against
ad hoc	for one special purpose	coram	before; in the presence of
ad infinitum	indefinitely; forever	corpus delicti	body of the crime
ad litem	for the suite	corpus juris	body of law
ad respondendum	to make answer	cum testamento annexo	with the will annexed
additur	addition by a judge to the amount of damages awarded by a jury	damnum absque injuria	loss without injury in the legal sense
amicus curiae	friend of the court	de facto	in fact; actually
animus furandi	intent to steal	de jure	according to law; rightfully
animus testandi	intent to make a will	de minimis	of little importance
anno Domini	in the year of our Lord	de novo	anew, afresh, a second time
ante	before	dictum	unessential statement or remark in a court decision
arguendo	in arguing	doli capax	capable of criminal intent; able to distinguish between right and wrong
assumpsit	he promised	duces tecum	bring with you

The Starfish Flinger

As the old man walked the beach at dawn, he noticed a young man ahead of him picking up starfish and flinging them into the sea.

Finally catching up with the youth, he asked him why he was doing this. The answer was that the stranded starfish would die if left until the morning sun grew hot.

"But the beach goes on for miles and there are millions of starfish," countered the other, "How can your effort make any difference?"

The young man looked at the starfish in his hand and then threw it to safely into the waves.

"It makes a difference to this one," he said.

From poet & author Loren Eiseley

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- This special offer is only good through March 31, 2005

As a member of the Houston Court Reporters, you are eligible to join MemberSource Credit Union. For more information on joining, call us at 713-627-4000, or go to www.membersourcecu.org.

1 APY = Annual Percentage Yield, APR = Annual Percentage Rate. Rates are subject to change without notice. Early withdrawals are subject to penalties.

2 Rates reviewed on July 1, 2005, December 1, 2005, May 1, 2006, and October 1, 2006.

3 Funds cannot be added through monthly direct deposit or payroll deduction.

INSURANCE FEASIBILITY SURVEY

HCRA is working on our ability to provide health insurance benefits to its members. We are wanting feedback from you. If you are interested in group health benefits, please contact Grayson Clevinger-Dorr at 713-906-4463. We are needing a couple minutes of your time to answer a few questions.

